APPENDIX

DIVISION I. Standards of Judicial Administration Recommended by the Judicial Council

Appendix Division I, Standards of Judicial Administration Recommended by the Judicial Council Division; Adopted by the Judicial Council of the State of California. Adopted pursuant to the authority contained in section 6, article VI, California Constitution.

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Sec. 1. Court's duty to prohibit bias

(a) [General] To preserve the integrity and impartiality of the judicial system, each judge should:

(1) (*Ensure fairness)* Ensure that courtroom proceedings are conducted in a manner that is fair and impartial to all of the participants;

(2) (*Refrain from and prohibit biased conduct)* In all courtroom proceedings, refrain from engaging in conduct and prohibit others from engaging in conduct that exhibits bias, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation, whether that bias is directed toward counsel, court personnel, witnesses, parties, jurors, or any other participants;

(3) (*Ensure unbiased decisions)* Ensure that all orders, rulings, and decisions are based on the sound exercise of judicial discretion and the balancing of competing rights and interests and are not influenced by stereotypes or biases.

(Subd (a) amended effective January 1, 1998; previously amended January 1, 1994.)

(b) [Creation of local committees] Each court should establish a local committee with local bar associations to assist in maintaining a courtroom environment free of bias or the appearance of bias. Courts within one or more counties may choose to form a single committee. The local committee should:

(1) Be composed of representative members of the court community, including but not limited to judges, lawyers, court administrators, and representatives and individuals from minority, women's, and gay and

lesbian bar associations and from organizations that represent persons with disabilities;

(2) Sponsor or support educational programs designed to eliminate bias within the court and legal communities, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation;

(3) Develop and maintain an informal procedure for receiving complaints relating to bias in the courtroom, including but not limited to bias based on disability, gender, race, religion, ethnicity, and sexual orientation.

(Subd (b) amended effective January 1, 1998; adopted effective January 1, 1994.)

(c) [Minimum components of a complaint procedure] An informal procedure developed and maintained by a local committee on bias should:

(1) Contain a provision specifying that the intent of the procedure is to educate with the purpose of ameliorating the problem rather than disciplining the person who is the subject of the complaint;

(2) Accommodate local needs and allow for local flexibility;

(3) Apply to all participants in courtroom proceedings;

(4) Apply only to complaints as to which the identity of the complainant is known;

(5) To the extent possible and unless disclosure is required by law, protect the confidentiality of the complainant, the person who is the subject of the complaint, and other interested persons;

(6) Relate to incidents of behavior or conduct occurring in courtroom proceedings;

(7) Apply to incidents of bias whether they relate to race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status;

(8) Contain a provision that exempts activities constituting legitimate advocacy when matters of race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status are relevant to issues in the courtroom proceeding;

(9) Focus on incidents that do not warrant discipline but that should be corrected;

(10) With respect to those incidents that if substantiated would warrant discipline, advise the complaining party of the appropriate disciplinary authority;

(11) Contain a provision specifying that nothing in the procedure in any way limits the ability of any person to submit a complaint of misconduct to the appropriate disciplinary body; and

(12) To the extent possible and unless disclosure is required by law, prohibit retention of written records of complaints received but permit collection of data on types of complaints or underlying anecdotes that might be useful in educational programs.

(Subd (c) adopted effective January 1, 1994.)

(d) [Application of local rules] The existence of the committee, its purpose, and the features of the informal complaint procedure should be memorialized in the applicable local rules of court.

(Subd (d) adopted effective January 1, 1994.)

Sec. 1 amended effective January 1, 1998; adopted effective January 1, 1987; previously amended effective January 1, 1994.

Former Section

Former sec. 1, relating to selection of presiding judge, was adopted effective November 20, 1964; amended effective January 1, 1968, November 16, 1968 and January 1, 1976; and repealed effective January 1, 1985.

Drafter's Notes

1994—The Council's Advisory Committee to Implement the Gender Fairness Proposals recommended adoption of a new provision in section 1 of the Standards of Judicial Administration to encourage creation of local fairness committees. The local committees would conduct educational programs and initiate informal complaint resolution procedures.

1998—Standard 1 is amended to specify that the court’s obligation to refrain from and prohibit biased conduct includes, but is not limited to, bias based on disability, gender, race, religion, ethnicity, and sexual orientation; to expand representation on local fairness committees to include representatives and individuals from minority, women’s, gay, and lesbian organizations, and

organizations of persons with disabilities; and to broaden the ambit of fairness education programs and the development of informal complaint procedures in the local courts.

Sec. 1.2. Use of gender-neutral language

Each court should use gender-neutral language in all local rules, forms, and court documents and should provide for periodic review to ensure the continued use of gender-neutral language. These changes may be made as local rules, forms, and documents are modified for other reasons.

Sec. 1.2 adopted effective January 1, 1987.

Sec. 1.3. Children's waiting room

Each court should endeavor to provide a children's waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings. The waiting room should be supervised and open during normal court hours. If a court does not have sufficient space in the courthouse for a children's waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed.

Sec. 1.3 adopted effective January 1, 1987.

Sec. 1.4. Reasonable accommodation for court personnel

At least to the extent required by state and federal law, each court should evaluate existing facilities, programs, and services available to employees to ensure that no barriers exist to prevent otherwise-qualified employees with known disabilities from performing their jobs or participating fully in court programs or activities.

Sec. 1.4 adopted effective January 1, 1998.

Drafter's Notes
1998—Standard 1.4 is added to recommend that each court develop policies and procedures to eliminate barriers to job performance and full participation in court programs or activities by qualified employees with known disabilities.

Sec. 1.5. Appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons

(a) [Nondiscrimination in appointment lists] In establishing and maintaining lists of qualified attorneys, arbitrators, mediators, referees, masters, receivers, and

other persons who are eligible for appointment, courts should ensure equal access for all applicants regardless of gender, race, ethnicity, disability, sexual orientation, or age.

(b) [Nondiscrimination in recruitment] Each trial court should conduct a recruitment procedure for the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons appointed by the court **(**the "appointment programs") by publicizing the existence of the appointment programs at least once annually through state and local bar associations, including specialty bar associations. This publicity should encourage and provide an opportunity for all eligible individuals, regardless of gender, race, ethnicity, disability, sexual orientation, or age, to seek positions on the rosters of the appointment programs. Each trial court also should use other methods of publicizing the appointment programs that maximize the opportunity for a diverse applicant pool.

(c) [Nondiscrimination in application and selection procedure] Each trial court should conduct an application and selection procedure for the appointment programs which ensures that the most qualified applicants for an appointment are selected, regardless of gender, race, ethnicity, disability, sexual orientation, or age.

Sec. 1.5 adopted effective January 1, 1999.

Drafter's Notes
1999—Rule 989.2 and Standards 1.5, 1.6, and 24 prohibits discrimination in the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and others appointed by the court. The standards recommend (1) that courts establish recruitment procedures for court appointments, including publicizing vacancies at least once a year; and (2) that courts selecting members to serve on committees establish a procedure to ensure that all qualified persons have equal access to the selection process.

Sec. 1.6. Selection of members of court-related committees

A court that selects members to serve on court-related committees should establish procedures ensuring that all qualified persons have equal access to selection regardless of gender, race, ethnicity, disability, sexual orientation, or age.

Sec. 1.6 adopted effective January 1, 1999.

Drafter's Notes
1999—Rule 989.2 and Standards 1.5, 1.6, and 24 prohibits discrimination in the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and others appointed by the court.

The standards recommend (1) that courts establish recruitment procedures for court appointments, including publicizing vacancies at least once a year; and (2) that courts selecting members to serve on committees establish a procedure to ensure that all qualified persons have equal access to the selection process.

Sec. 2. Caseflow management and delay reduction—statement of general principles

Trial courts should be guided by the general principle that from the commencement of litigation to its resolution, whether by trial or settlement, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated. To enable the just and efficient resolution of cases the court, not the lawyers or litigants, should control the pace of litigation. A strong judicial commitment is essential to reducing delay and, once achieved, maintaining a current docket.

The presiding judge of each court should take an active role in advancing the goals of delay reduction and in formulating and implementing local rules and procedures to accomplish the following:

(1) The expeditious and timely resolution of cases, after full and careful consideration consistent with the ends of justice;

(2) The identification and elimination of local rules, forms, and procedures that are obstacles to delay reduction or that prevent the court from effectively managing its cases;

(3) The formulation and implementation of a system of tracking cases from filing to disposition; and

(4) The training of judges and nonjudicial administrative personnel in delay reduction rules and procedures adopted in the local jurisdiction.

Sec. 2 as amended effective January 1, 1994; adopted effective July 1, 1987.

Former Section
Former sec. 2, relating to duties of presiding judge, was repealed effective January 1, 1973. See rule 532.5.

Drafter's Notes
1987—The Judicial Council of California has adopted statewide standards for the timely disposition of civil and criminal cases in California superior courts. The time standards, which are required under the Trial Court Delay Reduction Act (Stats. 1986, ch. 1335; Gov C §68603) are principles and guidelines to measure the progress of litigation.

Interim time standards, effective July 1, 1987, are found in new sections 2 and 2.1 of the Judicial Council's recommended Standards of Judicial Administration.

These standards provide that from July 1, 1987, through June 30, 1988, general civil cases should have a total elapsed processing time of no more than four years from filing to disposition.

Felony cases disposed of between July 1, 1987, and June 30, 1988, should have a total elapsed processing time of no more than one year from first court appearance to disposition.

General principles of caseflow management and delay reduction are also found in the standards. They provide that "from the commencement of litigation to its resolution, any elapsed time other than reasonably required for pleadings, discovery, and court events is unacceptable and should be eliminated" and that "the court, not the lawyers or litigants, should control the pace of litigation." This incorporates policies recommended by the American Bar Association.

The legislation requires that delay reduction programs be established in the nine superior courts with the longest case disposition rates. Those superior courts are Alameda, Contra Costs, Kern, Los Angeles, Orange, Riverside, Sacramento, San Diego and San Francisco. Operation of the programs will begin January 1, 1988.

The Judicial Council is being assisted by the National Center for State Courts in providing advice to the nine courts on implementing their delay reduction programs. The Administrative Office of the Courts, the council's staff agency, will soon make available to the remaining 49 superior courts information to assist them in their efforts to conform to the statewide standards.

The legislation requires the Judicial Council to adopt time standards recommended by the American Bar Association, or to state its reason for adopting other standards. Since the interim standards adopted by the council are different than the ABA's recommended standards, the council has approved a report and analysis prepared for it by the National Center for State Courts.

That report finds that inadequate statistical data exists on the present pace of litigation in trial courts and notes that the general view of many judges, lawyers, and other commenters is that adoption of the ABA standards would be premature and perhaps counterproductive because those standards are presently unattainable.

To establish a goal that all trial courts may strive to achieve, however, the council adopted the ABA's case disposition time standards to be effective July 1, 1991. In the interim, the council will monitor the progress of the courts in their delay reduction efforts.

Sec. 2.1. Superior court case-disposition time standards

(a) [Trial Court Delay Reduction Act] The recommended time standards in this section are adopted pursuant to chapter 1335 of the Statutes of 1986 **(**Gov. Code, §68603).

(Subd (a) as relettered effective January 1, 1989; adopted effective July 1, 1987.)

(b) [Statement of purpose] These recommended time standards are intended to guide the trial courts in applying the policies and principles of section 2 of the Standards of Judicial Administration. They are administrative, justice-oriented guidelines to be used in the management of the courts. They are not to be used as the basis for sanctions against any court or judge.

(Subd (b) as relettered effective January 1, 1989; adopted effective July 1, 1987, as subd (1).)

(c) [Superior court civil cases—processing time goals] Each superior court should process general civil cases to meet the following goals:

(1) By January 1, 1989, all cases should be disposed within four years of filing;

(2) By January 1, 1990, all cases should be disposed within three years of filing;

(3) After January 1, 1991, all cases should be disposed within two years of filing.

(Subd (c) as amended and relettered effective January 1, 1989; adopted effective July 1, 1987, as subd (2); and previously amended effective July 1, 1988.)

(d) [Superior court civil cases—rate of disposition] Each superior court should dispose of at least as many cases as are filed each year and, if necessary to meet the case-processing standards in subdivision **(**c), dispose of more cases than are filed. As the court disposes of inactive cases, it should identify active cases that may require judicial attention.

(Subd (d) as amended and relettered effective January 1, 1989; adopted effective July 1, 1987, as subd (3); and previously amended effective July 1, 1988.)

(e) [Definition] As used in this section, "general civil case" means all civil cases except probate, guardianship, conservatorship, family law, juvenile proceedings, and "other civil petitions" as defined in the Regulations on Superior Court Reports to the Judicial Council.

(Subd (e) as amended and relettered effective January 1, 1989; previously amended effective January 1, 1988; adopted effective July 1, 1987, as subd (4).)

(f) [Felony cases] Except for capital cases, all felony cases disposed of should have a total elapsed processing time of no more than one year from first appearance in any court to disposition.

(Subd (f) as amended and relettered effective January 1, 1989; previously amended effective January 1, 1988; adopted effective July 1, 1987, as subd (5).)

(g) [Exceptional cases] A civil case that involves exceptional circumstances or will require continuing review is exempt from the time standards in subdivisions **(**c) and **(**h). An exceptional case is not exempt from the time standard in subdivision **(**f), but case progress should be separately reported under the Regulations on Superior Court Reports to the Judicial Council.

(Subd (g) as amended effective July 1, 1991; adopted effective July 1, 1987; previously amended effective January 1, 1988; relettered effective January 1, 1989.)

(h) [Superior court civil cases—case-disposition time goals] Effective July 1, 1991, the goal of each superior court should be to manage general civil cases from filing as follows:

(1) Within 12 months, dispose of 90 percent;

(2) Within 18 months, dispose of 98 percent;

(3) Within 24 months, dispose of 100 percent.

(Subd (h) as amended effective July 1, 1991; adopted effective July 1, 1987; relettered effective January 1, 1989.)

Sec. 2.1 as amended effective July 1, 1991; previously amended effective January 1, 1988, July 1, 1988, January 1, 1989, and January 1, 1990; adopted effective July 1, 1987.

Notes

See note following sec. 2. Only the heading of the section was amended effective January 1, 1990.

Drafter's Notes

1988—The council amended section 2.1 of the Standards of Judicial Administration, effective January 1, 1989, to recommend that each superior court should process general civil cases to meet the following goals:

(1) by January 1, 1989, all cases should be disposed within four years of filing;

(2) by January 1, 1990, all cases should be disposed within three years of filing; and

(3) after January 1, 1991, all cases should be disposed within two years of filing.

The one-year felony case-processing time standard (from the first appearance in any court to disposition) adopted in 1987 was extended and may be reevaluated when the council considers time standards for the lower courts sometime next year. The council excepted death penalty cases from the one-year felony standard.

The new interim standards also recommend that each superior court should dispose of at least as many cases as are filed each year and, if necessary to meet the case-processing standards, dispose of more cases than are filed.

1991—The council amended subdivision (g) of section 2.1 of the Standards of Judicial Administration to correct technical errors and to provide for the exemption of an exceptional case from the case-disposition time goals adopted under subdivision (h), and amended subdivision (h) to limit application of the American Bar Association case-disposition time goals to general civil cases as defined and to state the goals in the text.

Sec. 2.3. Municipal court case-disposition time standards

(a) [Time standards for municipal and justice courts] Each municipal and justice court should process its cases to meet the time standards in this section.

(b) [General civil cases] A general civil case is any civil case other than a small claims or unlawful detainer case. The goals for general civil cases are:

(1) 90 percent disposed of within 12 months after filing;

(2) 98 percent disposed of within 18 months after filing;

(3) 100 percent disposed of within 24 months after filing.

(c) [Small claims cases] The goals for small claims cases are:

(1) 90 percent disposed of within 70 days after filing;

(2) 100 percent disposed of within 90 days after filing.

(Subd (c) as amended effective January 1, 1994.)

(d) [Unlawful detainer cases] The goals for unlawful detainer cases are:

(1) 90 percent disposed of within 30 days after filing;

(2) 100 percent disposed of within 45 days after filing.

(e) [Misdemeanor cases] The goals for misdemeanor cases are:

(1) 90 percent disposed of within 30 days after the defendants' first court appearance;

(2) 98 percent disposed of within 90 days after the defendants' first court appearance;

(3) 100 percent disposed of within 120 days after the defendants' first court appearance.

(f) [Felony preliminary examinations] The goal for felony filings, excluding murder cases in which the prosecution seeks the death penalty, is disposition **(**by certified plea, finding of probable cause, or dismissal) of:

(1) 90 percent within 30 days after the defendants' first court appearance;

(2) 98 percent within 45 days after the defendants' first court appearance;

(3) 100 percent within 90 days after the defendants' first court appearance.

(g) [Exclusion from computation of time in misdemeanor cases and felony preliminary examinations] If a defendant is not represented by counsel at the first court appearance, any period of time granted by the court to secure counsel should be excluded from the case-disposition time standards for misdemeanor cases under subdivision **(**e) and for felony preliminary examinations under subdivision **(**f).

(Subd (g) adopted effective January 1, 1996.)

(h) [Purpose; problems] The purpose of the time standards in this section is to improve the administration of justice by encouraging prompt disposition of all matters coming before the courts. These standards are not to be used as the basis for sanctions against any court or judge.
A court that finds its ability to comply with these standards impeded by a rule of court or statute should notify the Judicial Council.

(Subd (h) as relettered effective January 1, 1996; adopted as subd (g) effective January 1, 1991.)

Sec. 2.3 as amended effective January 1, 1996; adopted effective January 1, 1991; previously amended effective January 1, 1994.

Sec. 2.4. General exclusions to case-disposition time standards

If a case is removed from the court's control, as defined in the regulations for statistical reporting adopted by order of the Chairperson of the Judicial Council, the period of time until the case is restored to court control should be excluded from the case-disposition time standards.

Sec. 2.4 adopted effective January 1, 1996.

Sec. 3. [Repealed 2002]

Sec. 3, relating to trial court facilities standards, was adopted effective March 1, 1992, and repealed effective July 1, 2002. See rule 6.150.

Sec. 4. [Renumbered 2001]

Sec. 4 amended and renumbered rule 4.160 effective January 1, 2001; adopted effective July 1, 1989.

Former Section
Former Sec. 4 repealed effective January 1, 1985, previously amended effective January 1, 1973, and July 1, 1977; adopted effective November 16, 1968. The repealed section related to qualifications and functions of administrative officer.

Former Section
Former sec. 4, relating to qualifications and functions of administrative officer, was repealed effective January 1, 1985.

Advisory Committee Comment
Section 4(a) is not intended to imply that the court should attempt to impanel a jury in every case before granting a change of venue. If there is clear evidence of a reasonable likelihood that a fair and impartial trial cannot be had in the county, a change of venue should be ordered.

Drafter's Notes
1989—Section 4(a) states that, before ordering a change of venue in a criminal case, the court should consider attempting to impanel a jury that would give the defendant a fair and impartial trial. An Advisory Committee Comment states that this section is not intended to imply that the court should attempt to impanel a jury in every case before granting a change of venue. Instead, a change of venue should be ordered if there is clear evidence of a reasonable likelihood that a fair and impartial trial cannot be had in the county.

Section 4(b) states that, after a change of venue has been ordered, the court should determine whether it would be in the best interest of the administration of justice to move the jury rather than move the pending action. This procedure has been followed successfully by courts that are in close enough proximity that jurors have not been significantly inconvenienced.

Sec. 4.1. [Renumbered 2001]

Sec. 4.1 renumbered rule 4.161 effective January 1, 2001; adopted effective July 1, 1989.

Sec. 4.2. [Renumbered 2001]

Sec. 4.2 amended and renumbered rule 4.162 effective January 1, 2001; adopted effective July 1, 1989; previously amended effective January 1, 1998.

Sec. 4.5. Juror complaints

Each court should establish a reasonable mechanism for receiving and responding to juror complaints.

Sec. 4.5 adopted effective July 1, 1997.

Former Section
Former sec. 4.5 repealed effective July 1, 1997; previously amended effective January 1, 1985; adopted effective January 1, 1976. The repealed section related to granting excuses from jury service.

Sec. 4.6. Accuracy of master jury list

The jury commissioner should use the National Change of Address System or other comparable means to update jury source lists and create as accurate a list as reasonably practical.

Sec. 4.6 adopted effective July 1, 1997.

Sec. 5. Use of California Jury Instructions—Civil (BAJI) and California Jury Instructions—Criminal (CALJIC)

Whenever the latest edition of California Jury Instructions—Civil (BAJI) or California Jury Instructions—Criminal (CALJIC) contains an instruction applicable to a case and the trial judge determines that the jury should be instructed on the subject, it is recommended that the judge use the BAJI or CALJIC instruction unless he finds that a different instruction would more adequately, accurately or clearly state the law. Whenever the latest edition of BAJI or CALJIC does not contain an instruction on a subject upon which the trial judge determines that the jury should be instructed, or when a BAJI or CALJIC instruction cannot be modified to submit the issue properly, the instruction given on that subject should be simple, brief, impartial and free from argument. When an instruction requested by a party is a modified BAJI or CALJIC instruction, the party should indicate therein, by use of parentheses or other appropriate means, the respect in which it is modified. A trial judge in considering instructions to the jury shall give no less consideration to those

submitted by the attorneys for the respective parties than to those contained in the latest edition of California Jury Instructions—Civil (BAJI) or California Jury Instructions—Criminal (CALJIC).

Sec. 5 as amended effective January 1, 1971; previously amended effective January 1, 1970; adopted effective July 1, 1969.

Sec. 6. Memorandum opinions

The Courts of Appeal should dispose of causes that raise no substantial issues of law or fact by memorandum or other abbreviated form of opinion. Such causes could include:

(a) An appeal that is determined by a controlling statute which is not challenged for unconstitutionality and does not present any substantial question of interpretation or application.

(b) An appeal that is determined by a controlling decision which does not require a reexamination or restatement of its principles or rules.

(c) An appeal raising factual issues that are determined by the substantial evidence rule.

Sec. 6 adopted effective July 1, 1970.

Sec. 6.5. Habeas corpus petitions unrelated to appellate district

A Court of Appeal should ordinarily deny, without prejudice, a petiton for a writ of habeas corpus that is based primarily on facts occurring outside the appellate district. These include petitions that question (1) the validity of judgments or orders of trial courts located outside the appellate district, and (2) conditions of confinement or the conduct of correctional officials outside the appellate district. When a petition is denied solely on this basis, the order should so state and indicate the appropriate court in which to file the petiton.

Sec. 6.5 adopted effective January 1, 1985.

Drafter's Notes
1984—This new section was adopted to encourage a Court of Appeal receiving a petition for writ of habeas corpus that has no factual connection with the appellate district to deny the petition without prejudice and notify the petitioner of the appropriate court in which to file the petition.

Sec. 7. Court security

(a) **[Court security officer]** Each trial court should designate a specified peace officer as Court Security Officer to be responsible to the court for all matters relating to its security, including security of courtrooms, buildings and grounds. The peace officer designated as Court Security Officer should be the sheriff, marshal or constable **(**as appropriate) or his designee, except that where local conditions dictate otherwise another peace officer may be so designated. The Court Security Officer should be in operational command of all peace officers and others charged with a court security function while acting in that capacity and should be responsible for the adequacy of security equipment, for the competence training and assignment of security forces, and for the effective execution of the Court Security Plan.

(b) **[Court security plan—judicial review]** Each court should require the Court Security Officer to prepare a Court Security Plan for its review and consideration. The Court Security Plan:

(1) should be the operational plan for achieving the desired level of security for courtrooms, buildings and grounds, including the planned allocation of security forces and equipment;

(2) should describe the place and functional assignment and the dress and arming of all security forces (e.g., bailiffs), and propose plans for maintaining courtroom decorum and safety within courthouses and grounds in high risk situations; and

(3) should include an evaluation of the court's security needs, and an assessment of the adequacy and effectiveness of the equipment and forces available to meet those needs.

Each trial court should adopt, reject or request modification of the proposed Court Security Plan after giving due consideration to all local conditions affecting its security and to the effect of the plan on the conduct of trials and other proceedings. Each trial court should provide for a periodic review of its security plan and for a periodic assessment of the effectiveness of its execution.

(c) **[Wearing of firearms in court]** No trial court should approve a Court Security Plan that does not limit the wearing of firearms in the courthouse or courtrooms to peace officers and proscribe the wearing of firearms in such places by all other persons.

(d) [Security of Courts of Appeal] Each Court of Appeal should review its security needs and, if necessary, should request personnel and equipment deemed necessary to maintain the desired level of security.

Sec. 7 adopted effective July 1, 1971.

Sec. 7.5. Court sessions at or near state penal institutions

(a) Facilities used regularly for judicial proceedings should not be located on the grounds of or immediately adjacent to a state penal institution unless the location, design and setting of the court facility provide adequate protection against the possible adverse influence that the prison facilities and activities might have upon the fairness of judicial proceedings. In determining whether adequate protection is provided, the following factors should be considered:

(1) the physical and visual remoteness of the court facility from the facilities and activities of the prison;

(2) the location and appearance of the court facility with respect to the adjacent public areas through which jurors and witnesses would normally travel in going to and from the court;

(3) the accessibility of the facility to the press and the general public; and

(4) any other factors that might affect the fairness of the judicial proceedings.

(b) Unless the location, design and setting of the facility for conducting court sessions meet the criteria established in subdivision **(**a):

(1) court sessions should not be conducted in or immediately adjacent to a state penal institution except for compelling reasons of safety or convenience of the court, and

(2) should not be conducted at such a location when the trial is by jury, or when the testimony of witnesses who are neither inmates nor employees of the institution will be required.

Sec. 7.5 adopted effective July 1, 1975.

Sec. 8. Examination of prospective jurors in civil cases

(a) [In general]

(1) The examination of prospective jurors in a civil case may be oral, or by written questionnaire, or by both methods, and should include all questions necessary to ensure the selection of a fair and impartial jury. The Juror Questionnaire for Civil Cases (Judicial Council form MC-001) may be used. During any supplemental examination conducted by counsel for the parties, the trial judge should permit liberal and probing examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case.

(2) When counsel requests to be allowed to conduct a supplemental voir dire examination, the trial judge should permit counsel to conduct such examination without requiring prior submission of the questions to the judge unless a particular counsel has demonstrated unwillingness to avoid the type of examination proscribed in subdivision (f) of this section. In exercising his sound discretion as to the form and subject matter of voir dire questions, the trial judge should consider, among other criteria: (a) any unique or complex elements, legal or factual, in the case, and (b) the individual responses or conduct of jurors which may evince attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

(Subd (a) as amended effective July 1, 1993; previously amended effective January 1, 1974; adopted effective January 1, 1972.)

(b) [Pre-voir dire conference] Before the examination the trial judge should, outside the prospective jurors' hearing and with a court reporter present, confer with counsel, at which time specific questions or areas of inquiry may be proposed that the judge in his discretion may inquire of the jurors. Thereafter the judge should advise counsel of the questions or areas to be inquired into during the examination and voir dire procedure. He should also obtain from counsel the names of the witnesses whom counsel then plan to call at trial and a brief outline of the nature of the case, including any alleged injuries or damages and, in an eminent domain action, the respective contentions of the parties concerning the value of the property taken and any alleged severance damages and special benefits.

(Subd (b) as amended effective January 1, 1974; adopted effective January 1, 1972.)

(c) [Examination of jurors] Except as otherwise provided in subdivision **(**d), the trial judge's examination of prospective jurors should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case.

(1) (*To the entire jury panel after it has been sworn and seated*) I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he will be asked to give his answers to these questions.

(2) In the trial of this case the parties are entitled to have a fair, unbiased and unprejudiced jury. If there is any reason why any of you might be biased or prejudiced in any way, you must disclose such reason when you are asked to do so. It is your duty to make this disclosure.

(3) (*In lengthy trials*) This trial will likely take _____ days to complete, but it may take longer. Will any of you find it difficult or impossible to participate for this period of time?

(4) The nature of this case is as follows: (Describe briefly, including any alleged injuries or damages and, in an eminent domain action, the name of the condemning agency, a description of the property being acquired and the particular public project or purpose of the condemnation.)

(5) The parties to this case and their respective attorneys are: (Specify.) Have you heard of or been acquainted with any of these parties or their attorneys?

(6) During the trial of this case, the following witnesses may be called to testify on behalf of the parties. These witnesses are: (Do not identify the party on whose behalf the witnesses might be called.) Have any of you heard of or been otherwise acquainted with any of the witnesses just named? The parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(7) Have any of you heard of, or have you any knowledge of, the facts or events in this case? Are any of you familiar with the place(s) or property mentioned in this case?

(8) Do any of you believe that a case of this nature should not be brought into court for determination by a jury?

(9) Do any of you have any belief or feeling toward any of the parties, attorneys or witnesses that might be regarded as a bias or prejudice for or against any of them? Do you have any interest, financial or otherwise, in the outcome of this case?

(10) Have any of you served as a juror or witness involving any of these parties, attorneys or witnesses?

(11) Have any of you served as a juror in any other case? (If so, was it a civil or criminal case?) You must understand that there is a basic difference between a civil case and a criminal case. In a criminal case a defendant must be found guilty beyond a reasonable doubt; in a civil case such as this, you need only find that the evidence you accept as the basis of your decision is more convincing, and thus has the greater probability of truth than the contrary evidence.

(12) (*If a corporation or "company" is a party*)

(i) Have any of you or any member of your family or close friends ever had any connection with, or any dealings with, the _____ corporation (or company) to your knowledge?

(ii) Are any of you or them related to any officer, director or employee of this corporation (or company) to your knowledge?

(iii) Do you or they own any stock or other interest in this corporation (or company) to your knowledge?

(iv) Have you or they ever done business as a corporation or company?

(v) The fact that a corporation (or company) is a party in this case must not affect your deliberations or your verdict. You may not discriminate between corporations (or companies) and natural individuals. Both are persons in the eyes of the law and both are entitled to have a fair and impartial trial based upon the same legal standards. Do any of you have any belief or feeling for or against corporations (or companies) that might prevent you from being a completely fair and impartial juror in this case?

(13) Have any of you, or any member of your family or close friends to your knowledge, ever sued anyone, or presented a claim against anyone, in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(14) Has anyone ever sued any of you, or presented a claim against any of you, or to your knowledge against any member of your family or close friends, in connection with a matter similar to this case? (If so, did the matter terminate satisfactorily so far as you were concerned?)

(15) Are any of you, or any member of your family or close friends to your knowledge, presently involved in a lawsuit of any kind?

(16) (*When appropriate)* It may appear that one or more of the parties, attorneys or witnesses come from a particular national, racial or religious group (or may have a life style different than your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(17) Have any of you, or any member of your family or close friends, had any special training in: (Describe briefly the fields of expertise involved in the case, such as law, medicine, nursing or any other branch of the healing arts.)

(18) (*In personal injury or wrongful death cases*)

(i) You may be called upon in this case to award damages for personal injury, pain and suffering. Do any of you have any religious or other belief that pain and suffering are not real or any belief that would prevent you from awarding damages for pain and suffering if liability for them is established?

(ii) Are there any of you who would not employ a medical doctor?

(iii) Have any of you, or any member of your family or close friends to your knowledge, ever engaged in investigating or otherwise acting upon claims for damages?

(iv) Have you or they, to your knowledge, ever been in an accident with the result that a claim for personal injuries or for substantial property damage was made by someone involved in that accident, whether or not a lawsuit was filed?

(v) Have you or they, to your knowledge, ever been involved in an accident in which someone died or received serious personal injuries, whether or not a lawsuit was filed?

(vi) Are there any of you who do not drive an automobile? (If so, have you ever driven an automobile, and if you have, give your reason for not presently driving.) If you are married, does your spouse drive an automobile? (If your spouse does not drive but did so in the past, why did your spouse stop?)

(vii) Plaintiff (or cross-complainant) _____ is claiming injuries to his (or her): (Describe briefly the general nature of the alleged injuries.) Do any of you, or any member of your family or close friends to your knowledge, suffer from similar injuries? Have you or they, to your knowledge, suffered from similar injuries in the past? (If so, would that fact affect your point of view in this case to the extent that you might not be able to render a completely fair and impartial verdict?)

(19) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(20) Each of you should now state your name, where you live, your marital status (whether married, single, widowed or divorced), the number and ages of your children if any, your occupational history, and the name of your present employer. If you are married, you should also describe briefly your spouse's occupational history and present employer if any. Please begin with juror number one.

(21) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (c) as amended effective January 1, 1974; adopted effective January 1, 1972.)

(d) [Examination of jurors in eminent domain cases] In eminent domain cases, the trial judge's examination of prospective jurors should include the areas of inquiry set forth in subdivisions **(**c**)(**1) through **(**c**)(**12), the following areas and any other matters affecting their qualifications to serve as jurors in the case:

(1) To your knowledge, have any of you, or any member of your family or close friends, ever had any connection with, or dealings with, the plaintiff agency? Are any of you or them related to any officer or employee of the plaintiff agency?

(2) To your knowledge, have any of you, or any member of your family or close friends, ever been involved in an eminent domain proceeding such as this or will likely become involved in such a proceeding in the future?

(3) Do you have any relatives or close friends who have been or will be affected by the proposed project or a similar public project? (If so, who and how affected?)

(4) Have any of you, or any member of your family or close friends, ever sold property to a public agency having the power of eminent domain?

(5) Are any of you, or any member of your family or close friends to your knowledge, presently involved in a lawsuit of any kind? (If so, does the lawsuit involve a public agency?)

(6) Have any of you, or any member of your family or close friends to your knowledge, ever been involved in a lawsuit involving a public agency?

(7) (*When appropriate*) It may appear that one or more of the parties, attorneys or witnesses come from a particular national, racial or religious group (or may have a life style different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(8) Have any of you, or any member of your family or close friends, had any special training in: (Describe briefly the fields of expertise involved in the case, such as law, real estate, real estate appraising, engineering, surveying, geology, etc.)

(9) Have you, or your spouse, ever been engaged in any phase of the real estate business including:

(i) Acting as a real estate agent, broker or salesman,

(ii) Acting as a real estate appraiser,

(iii) Dealing in trust deeds,

(iv) Buying or selling real property as a business,

(v) Owning or managing income property, or

(vi) Engaging in the construction business?

(10) Have you or any member of your family or any close friend ever studied or engaged in: (State type of business, if any, conducted on subject property.)

(11) Have you, or any members of your immediate family or close friends, ever been engaged in any work involving the acquisition of private property for public purposes? Or involving the zoning or planning of property?

(12) Under the law of this state, all private property is held subject to the necessary right of eminent domain, which is the right of the state or its authorized agencies to take private property for public use whenever the public interest so requires. The right of eminent domain is exercised through proceedings commonly called a condemnation action. This is such an action.

(13) The Constitution of this state requires that a property owner be paid just compensation for the taking (or damaging) of his property for public use. It will be the duty of the jury ultimately selected in this case to determine the just compensation to be paid.

(14) (*If no claim of severance damages)* In order to find the amount of just compensation in this case, the jury will be called upon to determine the fair market value of the real property being acquired.

(*If severance damages are claimed)* In order to find the amount of just compensation in this case, the jury will be called upon to determine the following:

(i) The fair market value of the real property being acquired.

(ii) Severance damages, if any, to the defendant's remaining real property; that is, the depreciation in market value by reason of the severance of the part taken, or by the construction of the improvement(s) in the manner proposed by the plaintiff, or both.

(iii) (*When applicable)* Special benefits, if any, to the defendant's remaining real property. (The trial judge upon request may advise the jury on the concept of special benefits.)

(15) Just compensation is measured in terms of fair market value as of (date), the date of value in this case.

(16) I will give you more specific instructions on the issues and determinations to be made in this case at the conclusion of all the evidence. However, I will now advise you of the definition of fair market value: (See BAJI 11.73.)

(17) (Repealed 1989.)

(Subd (d) (17) repealed effective January 1, 1989.)

(18)

(i) Do you have any objection to the concept of private ownership of property?

(ii) Do you have any objection to the right of the owner of private property to develop or use that property in whatever lawful way its owner sees fit?

(19) Do you have any objection to the plaintiff acquiring private property for a public use as long as just compensation is paid for the property?

(20) Do you have any objection to the defendant(s) seeking just compensation in these proceedings in the form of the fair market value of the subject property (and the damages that the defendant(s) contend will be caused to the remaining property)?

(21) Do you have any objection to the particular public project involved in this proceeding previously referred to as the (name of project)?

(22) Are you, or any member of your family or close friends, to your knowledge, a member of any organization that is opposed to such public projects?

(23) Do you have any objection to the concept that just compensation is measured by fair market value as I have defined that term for you earlier?

(24) Do you have any feeling that because the plaintiff needs the property for public purposes that it should pay anything other than its fair market value?

(25) In these cases the evidence of value for the most part is introduced by way of what the courts have sometimes referred to as expert testimony. This expert testimony frequently is introduced through appraisers or real estate brokers. Have you any prejudice against real estate brokers or appraisers, or that type of testimony?

(26) In a condemnation case the property owner produces all of his evidence of value first, then the government calls its witnesses. Having this in mind, will you keep your mind open throughout all the case and not determine the matter in your mind until all of the evidence is in?

(27) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(28) Each of you should now state your name, where you live, your marital status (whether married, single, widowed or divorced), the number and ages of your children if any, your occupational history, and the name of your present employer. If you are married, you should also describe briefly your spouse's occupational history and present employer if any. Please begin with juror number one.

(29) Each of you should now state whether you or your spouse owns or has an interest in any real property and, if so, whether its value or use is affected by the public project involved in this case. We will again start with juror number one.

(30) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case? If there is, it is your duty to disclose the reason at this time.

(Subd (d) amended effective January 1, 1989; adopted effective January 1, 1974.)

(e) [Subsequent conference and examination] Upon completion of the initial examination and upon request of counsel for any party that the trial judge put additional questions to the jurors, the judge should, outside the jurors' hearing and with a court reporter present, confer with counsel, at which time additional questions or areas of inquiry may be proposed that the judge may inquire of the jurors.

(Subd (e) as amended effective January 1, 1974; adopted effective January 1, 1972.)

(f) [Improper questions] When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. Nor should he allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to insure the selection of a fair and impartial jury.

(Subd (f) as amended effective January 1, 1974; adopted effective January 1, 1972.)

Sec. 8 as amended effective July 1, 1993; adopted effective January 1, 1972; previously amended effective January 1, 1974, and January 1, 1989.

Drafter's Notes
1988—The council repealed subdivision (d)(17) of section 8 of the Standards of Judicial Administration to conform to legislative changes (Code Civ. Proc., §1260.210(b)). The subdivision dealt with examination of jurors in eminent domain cases.

Sec. 8.5. Examination of prospective jurors in criminal cases

(a) [In general]

(1) This standard applies in all criminal cases.

(2) The examination of prospective jurors in a criminal case should include all questions necessary to insure the selection of a fair and impartial jury.

The trial judge may, upon a showing of good cause, permit supplemental examination calculated to discover possible bias or prejudice with regard to the circumstances of the particular case, relevant to a challenge for cause.

(Subd (a) amended effective June 6, 1990; previously amended effective January 1, 1988, January 1, 1990.)

(b) [Examination of jurors] The trial judge's examination of prospective jurors in criminal cases should include the following areas of inquiry and any other matters affecting their qualifications to serve as jurors in the case:

(1) (To the entire jury panel after it has been sworn and seated): I am now going to question the prospective jurors who are seated in the jury box concerning their qualifications to serve as jurors in this case. All members of this jury panel, however, should pay close attention to my questions, making note of the answers you would give if these questions were put to you personally. If and when any other member of this panel is called to the jury box, he or she will be asked to answer these questions.

(2) (To the prospective jurors seated in the jury box): In the trial of this case each side is entitled to have a fair, unbiased and unprejudiced jury. If there is any fact or any reason why any of you might be biased or prejudiced in any way, you must disclose such reasons when you are asked to do so. It is your duty to make this disclosure.

(3) (In lengthy trials): This trial will likely take _____ days to complete, but it may take longer. Will any of you find it difficult or impossible to participate for this period of time?

(4) Ladies and gentlemen of the jury: This is a criminal case entitled The People of the State of California v. _____. The (defendant is)(defendants are) seated _____.

a. (Mr.)(Ms.)(defendant), please stand and face the prospective jurors in the jury box and in the audience seats. (Defendant complies.) Is there any member of the jury panel who is acquainted with the defendant or who may have heard (his)(her) name prior to today? If your answer is yes, please raise your hand.

b. The defendant, _____, is represented by (his)(her) attorney, _____, who is seated _____. (Mr.)(Ms.)(defense attorney), would you please stand? Is there

any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ prior to today?

c. (*If there is more than one defendant, repeat (a) and (b) for each codefendant.)*

(5) The People are represented by _____, Deputy District Attorney, who is seated _____. (Mr.)(Ms.)(district attorney), would you please stand? Is there any member of the jury panel who knows or who has seen (Mr.)(Ms.) _____ prior to today?

(6) The defendant is charged by an (information) (indictment) filed by the district attorney with having committed the crime of _____, in violation of section _____ of the _____ Code, it being alleged that on or about _____ in the County of _____, the defendant did (describe the offense). To (this charge) (these charges) the defendant has pleaded not guilty, and it will be the question of whether the defendant's guilt has been proved beyond a reasonable doubt that you will be asked to decide if you are selected as a trial juror in this case. Having heard the charge(s) that (has)(have) been filed against the defendant, is there any member of the jury panel who feels that he or she cannot give this defendant a fair trial because of the nature of the charge(s) against (him)(her)?

(7) Have any of you heard of, or have you any prior knowledge of, the facts, or events in this case?

(8) During the trial of this case, the following persons may be called as witnesses to testify on behalf of the parties: (The defendant may be excused from disclosing the name of any witness. Do not identify the side on whose behalf the witness might be called.) Have any of you heard of or otherwise been acquainted with any of the witnesses just named? You should note that the parties are not required and might not wish to call all of these witnesses, and they may later find it necessary to call other witnesses.

(9) Do any of you have any belief or feeling toward any of the parties, attorneys or witnesses that would make it impossible, or difficult, for you to act fairly and impartially, both as to the defendant and the People? Do any of you have any interest in the outcome of this case?

(10) How many of you have served previously as jurors in a criminal case?

(To each person whose hand is raised):

a. (Mr.)(Ms.) _____, you indicated you have been a juror in a criminal case. What was the nature of the charge in that case? (Response.)

b. Do you feel you can put aside whatever you heard in that case and decide this case on the evidence to be presented and the law as I shall state it to you? (Response.)

(11) May I see the hands of those jurors who have served on civil cases, but who have never served on a criminal case? (Response.) You must understand that there are substantial differences in the rules applicable to the trial of criminal cases from those applicable to the trial of civil cases. This is particularly true respecting the burden of proof which is placed upon the People. In a civil case we say that the plaintiff must prove his case by a preponderance of the evidence. In a criminal case, the defendant is presumed to be innocent, and before he may be found guilty, the People must prove his guilt beyond a reasonable doubt. If the jury has a reasonable doubt, the defendant must be acquitted. Will each of you be able to set aside the instructions which you received in your previous cases and try this case on the instructions given by me in this case?

(12) The fact that the defendant is in court for trial, or that charges have been made against (him)(her), is no evidence whatever of (his)(her) guilt. The jurors are to consider only evidence properly received in the courtroom in determining whether the defendant's guilt has been proved beyond a reasonable doubt. The defendant has been arraigned and has entered a plea of "not guilty," which is a complete denial, making it necessary for the People, acting through the district attorney, to prove beyond a reasonable doubt the case against the defendant. Until and unless this is done, the presumption of innocence prevails.

(13) Have any of you, or any member of your family or any close friends to your knowledge, ever been arrested for or charged with an offense similar to that in this case?

(14) Have any of you, or any member of your family or any close friends to your knowledge, ever been a complaining witness or a victim in a case of this kind?

(15) Have any of you, or any member of your family or any close friends to your knowledge, had any law enforcement training or experience or been a member of or been employed by any law enforcement agency? By law enforcement agency, I include any police department, sheriff's office, highway patrol, district attorney's office, city attorney's office, attorney general's office, United States attorney's office, FBI, etc? (If so, elicit the details of the experience or connection.)

(16) Would you be able to listen to the testimony of a police or other peace officer and measure it by the same standards that you use to test the credibility of any other witness?

(17) Would you have any difficulty or embarrassment in returning a verdict for or against the side which had a police or other peace officer as a witness?

(18) (*When appropriate*) It may appear that one or more of the parties, attorneys or witnesses come from a particular national, racial or religious group (or may have a life style different from your own). Would this in any way affect your judgment or the weight and credibility you would give to their testimony?

(19) It is important that I have your assurance that you will, without reservation, follow my instructions and rulings on the law and will apply that law to this case. To put it somewhat differently, whether you approve or disapprove of the court's rulings or instructions, it is your solemn duty to accept as correct these statements of the law. You may not substitute your own idea of what you think the law ought to be. Will all of you follow the law as given to you by me in this case?

(20) Each of you should now state your name, where you live, your marital status (whether married, single, or widowed, or divorced), the number and ages of your children if any, your occupational history, and the name of your present employer. If you are married, you should also describe briefly your spouse's occupational history and present employer if any. Please begin with juror number one.

(21) Do you know of any other reason, or has anything occurred during this question period, that might make you doubtful you would be a completely fair and impartial juror in this case or why you should not be on this jury? If there is, it is your duty to disclose the reason at this time?

(22) (*At this point the court asks each side to exercise any challenges for cause.)*

(At this point the court calls on each side, alternately, to exercise any peremptory challenges.)

(23) *(When a new prospective juror is seated, the court should ask (him)(her)):*

(i) Have you heard my questions to the other prospective jurors?

(ii) Have any of the questions I have asked raised any doubt in your mind as to whether you could be a fair and impartial juror in this case?

(iii) Can you think of any other reason why you might not be able to try this case fairly and impartially to both the prosecution and defendant, or why you should not be on this jury?

(iv) Give us the personal information requested concerning your occupation, that of your spouse and your prior jury experience.

(Thereupon, as to each new juror seated, the court should ask counsel whether it has adequately covered the proper subjects of inquiry, ask such additional questions as the court determines are proper, and permit counsel, upon a showing of good cause, to ask supplemental questions, and proceed with challenges as above.)

(Subd (b) as amended effective January 1, 1997; adopted effective July 1, 1974, as subd (c); previously amended and relettered effective June 6, 1990.)

(c) [Improper questions] When any counsel examines the prospective jurors, the trial judge should not permit counsel to attempt to precondition the prospective jurors to a particular result or allow counsel to comment on the personal lives and families of the parties or their attorneys. Nor should (he) (she) allow counsel to question the jurors concerning the pleadings, the applicable law, the meaning of particular words and phrases, or the comfort of the jurors, except in unusual circumstances, where, in the trial judge's sound discretion, such questions become necessary to ensure the selection of a fair and impartial jury.

(Subd (c) as relettered effective January 1, 1997; adopted effective July 1, 1974, as subd (e); previously amended and relettered to be subd (d) effective June 6, 1990.)

Sec 8.5 as amended effective January 1, 1997; previously amended effective January 1, 1988, January 1, 1990, June 6, 1990; adopted effective July 1, 1974.

Drafter's Notes
1990—Gender-neutral language is added in section 8.5 of the Standards of Judicial Administration.

Section 8.5(a)(1) of the Standards of Judicial Administration is amended concerning the examination of prospective jurors in criminal cases, to delete the reference to Code of Civil Procedure section 223.5, which has been repealed by the initiative.

Section 8.5(a)(2) is amended concerning the examination of prospective jurors in criminal cases, to reflect the limitations on the participation of counsel in voir dire found in new Penal Code section 223.

New rules 228.2 and 516.2 are added to provide for supplemental examinations in criminal cases, and section 8.5(a)(3) of the Standards of Judicial Administration is repealed concerning the same subject.

1997—Standard 8.5 was amended to recommend that the judge explain to potential jurors in a criminal case that they are to determine whether the defendant's guilt has been proven beyond a reasonable doubt.

Sec. 8.6. Uninterrupted jury selection

Where practical, the trial judge, with the cooperation of the other judges of the court, should schedule court business to allow for jury selection uninterrupted by other court business.

Sec. 8.6 adopted effective July 1, 1990.

Drafter's Notes
1990—The council adopted new rules 228.1 and 516.1 concerning conferences to be held before jury selection in criminal cases (pre-voir dire conferences) in which certain information shall be exchanged, and concerning the submission of questions for prospective jurors in writing, in advance of the conference. It also adopted new sections 8.6 and 8.8 of the Standards of Judicial Administration, concerning uninterrupted jury selection and judicial education related to jury selection.

Sec. 8.7. [Repealed 2001]

Sec. 8.7 repealed effective January 1, 2001; adopted effective June 6, 1990. See title four.

Sec. 8.8. [Repealed 1999]

Sec. 8.8 repealed effective January 1, 1999; amended effective January 1, 1998; adopted effective July 1, 1990.

Drafter's Notes

1990—The council adopted new rules 228.1 and 516.1 concerning conferences to be held before jury selection in criminal cases (pre-voir dire conferences) in which certain information shall be exchanged, and concerning the submission of questions for prospective jurors in writing, in advance of the conference. It also adopted new sections 8.6 and 8.8 of the Standards of Judicial Administration, concerning uninterrupted jury selection and judicial education related to jury selection.

1998—This standard was amended to encourage CJER to provide educational materials for judicial officers, court administrators, and jury staff on the treatment of jurors; to recommend that presiding judges ensure that all court employees who interact with jurors are properly trained; and to recommend that judges who conduct jury trials be trained on the conduct of voir dire and the treatment of jurors.

Sec. 8.9. Trial management standards

(a) [General principles] The trial judge has the responsibility to manage the trial proceedings. The judge should take appropriate action to ensure that all parties are prepared to proceed, the trial commences as scheduled, all parties have a fair opportunity to present evidence, and the trial proceeds to conclusion without unnecessary interruption. When the trial involves a jury, the trial judge should manage proceedings with particular emphasis upon the needs of the jury.

(b) [Techniques of trial management] The trial judge should employ the following trial management techniques:

(1) Participate with trial counsel in a trial management conference before trial.

(2) After consultation with counsel, set reasonable time limits.

(3) Arrange the court’s docket to start trial as scheduled and inform parties of the number of hours set each day for the trial.

(4) Ensure that once trial has begun, momentum is maintained.

(5) Be receptive to using technology in managing the trial and the presentation of evidence.

(6) Attempt to maintain continuity in days of trial and hours of trial.

(7) Schedule arguments on legal issues at the beginning or end of the day so as not to interrupt the presentation of evidence.

(8) Permit sidebar conferences only when necessary, and keep sidebar conferences as short as possible.

(9) In longer trials, consider scheduling trial days to permit jurors time for personal business.

Sec 8.9 adopted effective July 1, 1997.

Sec. 9. Policy regarding continuances in the superior court

To ensure the prompt disposition of civil cases, each superior court should adopt a firm policy regarding continuances, emphasizing that the dates assigned for a trial setting or pretrial conference, a settlement conference and for trial must be regarded by counsel as definite court appointments. Any continuance, whether contested or uncontested or stipulated to by the parties, should be applied for by noticed motion, with supporting declarations, to be heard only by the presiding judge or by a judge designated by him. No continuance otherwise requested should be granted except in emergencies. A continuance should be granted only upon an affirmative showing of good cause requiring the continuance. In general, the necessity for the continuance should have resulted from an emergency occurring after the trial setting conference that could not have been anticipated or avoided with reasonable diligence and cannot now be properly provided for other than by the granting of a continuance. In ruling on a motion for continuance, the court should consider all matters relevant to a proper determination of the motion, including the court's file in the case and any supporting declarations concerning the motion; the diligence of counsel, particularly in bringing the emergency to the court's attention and to the attention of opposing counsel at the first available opportunity and in attempting to otherwise meet the emergency; the nature of any previous continuances, extensions of time or other delay attributable to any party; the proximity of the trial or hearing date; the condition of the court's calendar and the availability of an earlier trial or hearing date if the matter is ready for trial or hearing; whether the continuance may properly be avoided by the substitution of attorneys or witnesses, by the use of depositions in lieu of oral testimony, or by the trailing of the matter for trial or hearing; whether the interests of justice are best served by a continuance, by the trial or hearing of the matter, or by imposing conditions on its continuance; and any other fact or circumstance relevant to a fair determination of the motion. The following matters should, under normal circumstances, be considered good cause for granting the continuance of a trial date:

(1) Death:

(i) The death of the trial attorney or an essential witness where, because of the proximity of such death to the date of trial, it is not feasible to substitute another attorney or witness.

(ii) The death of an expert witness where, because of the proximity of his death to the date of trial, there has been no reasonable opportunity for a substitute expert witness to become qualified to testify in the case.

(iii) The death of any other witness only where it is not possible to obtain another witness to testify to the same facts or where, because of the proximity of his death to the date of trial, there has been no reasonable opportunity to obtain such a substitute witness.

(2) Illness that is supported, wherever possible, by an appropriate declaration of a medical doctor, stating the nature of the illness and the anticipated period of any incapacity:

(i) The illness of a party or essential witness, except that, when it is anticipated the incapacity of such party or witness will continue for an extended period, the continuance should be granted on condition of taking the deposition of the party or witness in order that the trial may proceed on the next date set.

(ii) The illness of the trial attorney or of an expert witness, except that the substitution of another attorney or witness should be considered in lieu of a continuance depending on the proximity of the illness to the date of trial, the anticipated duration of the incapacity, the complexity of the case, and the availability of a substitute attorney or expert witness.

(iii) The illness of any other witness only where it is not possible to obtain another witness to testify to the same facts or where, because of the promixity of his illness to trial, there has been no reasonable opportunity to obtain such a substitute witness.

(3) Unavailability of trial attorney or witness:

(i) The unavailability of the trial attorney when he is engaged in the trial of another case, or in the hearing, investigative or formal, of a State Bar disciplinary matter, if:

a. at the time the attorney accepted the trial date in this case he could not have reasonably anticipated the conflict in trial dates; and

b. the court was informed and made a finding at the pretrial or trial setting conference or on motion made at least 30 days before the date set for trial that the case was assigned for trial to this attorney within a particular law firm and that no other attorney in that firm was capable and available to try the case and was or could be prepared to do so.

(ii) The unavailability of a witness only where the witness has been subpenaed or is beyond the reach of subpena and has agreed to be present, and his absence is due to an unavoidable emergency that counsel did not know and could not reasonably have known at the time of the pretrial or trial setting conference.

(4) Substitution of trial attorney: The substitution of the trial attorney only where there is an affirmative showing that the substitution is required in the interests of justice.

(5) Significant change in status of case: A significant change in the status of the case where, because of a change in the parties or pleadings ordered by the court, the case is not ready for trial.

Sec. 9 as amended effective January 1, 1985; previously amended effective January 1, 1972, January 1, 1974, January 1, 1975, January 1, 1977, and January 1, 1978; adopted effective January 1, 1972.

Drafter's Notes
1984—This section was amended to delete subdivisions (a), (c), (d), and (e), the substance of which have been adopted as rules. See rule 209 et seq.

Sec. 10. [Renumbered 2001]

Sec. 10 renumbered rule 4.115 effective January 1, 2001; adopted effective January 1, 1985.

Former Section
Former sec. 10, similar to present secs. 10 and 10.1, was adopted effective January 1, 1972, amended effective January 1, 1974, and July 1, 1977, and repealed effective January 1, 1985.

Sec. 10.1. [Renumbered 2001]

Sec. 10.1 amended and renumbered 4.112(b) effective January 1, 2001; adopted effective January 1, 1985.

Sec. 10.5. Municipal and justice court traffic infraction procedures

To insure the prompt and efficient disposition of traffic infraction cases each municipal and justice court should:

(a) Authorize the clerk, within limits set by the court, to grant defendants extensions of time for the posting of bail and payment of fines.

(b) Authorize the clerk or other court official to accept offers of proof of correction or compliance in accordance with the bail schedule without the necessity of a court appearance.

Sec. 10.5 adopted effective July 1, 1977.

Sec. 10.6. Courtesy notice—traffic procedures

Each municipal and justice court should promptly mail a "courtesy notice" to the address shown on the Notice to Appear. The date of mailing should allow for the plea-by-mail option in infraction cases. In addition to information obtained from the Notice to Appear, the courtesy notice should contain at least the following information: an appearance date, time, and location; whether a court appearance is mandatory or optional; the total bail amount if forfeitable; the procedure required for remitting bail; the plea-by-mail option in infraction cases and the number of appearances required where trial is requested; the consequences of failure to appear; and a telephone number to call for additional information. Courts should provide additional information on the courtesy notice, as appropriate, including but not limited to the following: informal trial, trial by declaration, traffic violators' school and telephone scheduling options, and correction requirements and procedures.

Sec. 10.6 adopted effective January 1, 1987.

Drafter's Notes
1987—The council added sections 10.6 and 10.7 to the California Standards of Judicial Administration recommending that municipal and justice courts mail courtesy notices in traffic

cases and hold periodic round-table discussions with representatives from local law enforcement agencies, the prosecution and defense bars, and other interested groups as appropriate to adopt and review procedures governing the scheduling of traffic infraction trials. The goal of both standards is to minimize appearance time and costs for defendants, witnesses, and law enforcement officers in traffic proceedings.

Sec. 10.7. Traffic infraction trial scheduling—round-table discussions

Municipal and justice courts should adopt and periodically review procedures governing the scheduling of traffic infraction trials that minimize appearance time and costs for defendants, witnesses, and law enforcement officers. Courts should hold periodic round-table discussions with representatives from local law enforcement agencies, the prosecution and defense bars and other interested groups as appropriate in an effort to achieve this goal.

Sec. 10.7 adopted effective January 1, 1987.

Drafter's Notes
1987—See note following section 10.6.

Sec. 11. Calendar management review

Whenever any of the following conditions exist in a court for the most recent three months reported, the presiding judge should consider requesting the services of the Administrative Office of the Courts to review the court's calendar management procedures and make recommendations:

(1) more than 90 civil active cases are pending for each judicial position, or

(2) more than 10 percent of the cases on the civil active list have been pending one year or more.

Sec. 11 adopted effective January 1, 1985.

Former Section
Former sec. 11, relating to trial court management procedures, was adopted effective January 1, 1972, amended effective January 1, 1974, and July 1, 1977, and repealed effective January 1, 1985.

Sec. 11.5. Date certain for trial

Unless removed from the civil active list, every case should proceed to trial on the date set or, if necessary, within the next four court days. A case that cannot proceed to trial in the time provided in this standard because of the unavailability of the trial

department should be reset for a date certain and be entitled to priority over other cases set for trial on the same day, except cases entitled to priority by law. This standard applies to all courts.

Sec. 11.5 adopted effective January 1, 1985.

Drafter's Notes
1984—New section 11.5 was added to the Standards of Judicial Administration, recommending that every case in any court should proceed to trial on the date set or, if necessary, within the next four days.

Sec. 11.7. [Repealed 1987.]

Sec. 11.7 repealed effective January 1, 1987; adopted effective January 1, 1985. See Pen C §190.9.

Drafter's Notes
1987—The council has repealed section 11.7 of the California Standards of Judicial Administration because it has been superseded by legislation. An amendment to Penal Code section 190.9 (Stats. 1986, ch. 387) requires cases that may result in a death penalty to be reported by a court reporter who uses computer-aided transcription equipment. The repealed standard had recommended—but did not require—the use of this equipment.

Sec. 12. [Renumbered 2001]

Sec. 12 amended and renumbered rule 4.480 effective January 1, 2001; as amended effective July 1, 1978; adopted effective January 1, 1973.

Sec. 12.5. [Repealed 1981]

Sec. 12.5 repealed effective July 1, 1981; adopted effective July 1, 1978. See rule 419.

Section 13. [Repealed 2001]

Sec. 13 repealed effective January 1, 2001; adopted effective July 1, 1973; previously amended effective January 1, 1974. See title four.

Sec. 14. Judicial comment on verdict or mistrial

At the conclusion of a trial, or upon declaring a mistrial for failure of a jury to reach a verdict, it is appropriate for the trial judge to thank jurors for their public service, but the judge's comments should not include praise or criticism of the verdict or the failure to reach a verdict.

Sec. 14 adopted effective January 1, 1976.

Sec. 15. [Repealed 1984]

Sec. 15 repealed effective January 1, 1984; adopted effective July 1, 1976. See rule 379.

Sec. 16. Procedures for handling complaints against court commissioners and referees

In establishing procedures for receiving and resolving complaints against court commissioners and referees a court should consider the following suggested guidelines:

(1) A complaint received on the conduct of a subordinate judicial officer should be directed to the presiding judge. When the complaint is not in writing, a memorandum that includes the pertinent information should be made.

(2) A file should be maintained showing each complaint and its disposition.

(3) The presiding judge or a judge or judges designated by the presiding judge should review each complaint promptly. A complaint that is frivolous or unfounded on its face may be disposed of without further action, but the complainant should be informed of the disposition and a memorandum should be placed in the file.

(4) A preliminary inquiry should be made on any complaint that has possible validity. A copy of the complaint should be supplied to the commissioner or referee, who should be allowed an opportunity to respond. The preliminary inquiry may be terminated if the complaint is found to be lacking in merit or an acceptable explanation is offered.

(5) When the preliminary inquiry indicates that a complaint not minor in nature appears to have validity or there is other good cause including other complaints, the presiding judge should appoint a committee of judges to conduct further investigation. The commissioner or referee should be presented a written statement of the allegations and provided an opportunity to respond either orally or in writing.

(6) At the conclusion of the investigation the committee should make a written report and recommendation for action to be taken by the court. The committee may recommend that no further action be taken on the complaint, that a reprimand be given the commissioner or referee, or that

further proceedings be conducted to consider suspension or termination of employment. The court in determining the disposition of the complaint should give due consideration to the committee's recommendation.

(7) Each complainant should be notified promptly in writing of the receipt and of the disposition of the complaint.

(8) The complaint at all stages should be handled as promptly as due process allows.

(9) Except as provided in paragraphs (3) and (7), all papers filed and proceedings conducted on a complaint against a commissioner or referee should be confidential until disciplinary action is ordered by the court.

Sec. 16 adopted effective July 1, 1978.

Sec. 16.5. Temporary judges hearing small claims cases

(a) Each court that uses temporary judges to hear small claims cases should develop and monitor a program to recruit, select, train, and evaluate attorneys qualified to serve as temporary judges.

(b) The presiding judge should assign a judge or judges to participate in the selection and evaluation of temporary judges.

(c) Training for temporary judges should comply with the requirements of rule 1726.

(d) Each court should establish procedures for receiving, investigating, and resolving complaints against temporary judges. The presiding judge should issue no further temporary judge assignments to an attorney who has failed to perform the duties of a temporary judge in a competent, efficient, considerate, and ethical manner.

(e) Model programs for recruiting, selecting, training, and evaluating temporary judges are available from the Administrative Office of the Courts.

Sec. 16.5 adopted effective January 1, 1994.

Drafter's Notes
1994—Legislation enacted in 1993 requires a new standard of judicial administration relating to training for temporary judges hearing small claims cases.

Sec. 17. Selection of regular grand jury

(a) [Definition] "Regular grand jury" means a body of citizens of a county selected by the court to investigate matters of civil concern in the county, whether or not that body has jurisdiction to return indictments.

(b) [Regular grand jury list] The list of qualified candidates prepared by the jury commissioner to be considered for nomination to the regular grand jury should be obtained by one or more of the following methods:

(1) Names of members of the public obtained at random in the same manner as the list of trial jurors. However, the names obtained for nomination to the regular grand jury should be kept separate and distinct from the trial jury list, consistent with Penal Code section 899.

(2) Recommendations for grand jurors that encompass a cross-section of the county's population base, solicited from a broad representation of community-based organizations, civic leaders, and superior court, municipal and justice court judges, referees, and commissioners.

(3) Applications from interested citizens solicited through the media or a mass mailing.

(c) [Carry-over grand jurors] The court is encouraged to consider carry-over grand jury selections under Penal Code section 901**(**b) to ensure broad-based representation.

(d) [Nomination of grand jurors] Judges who nominate persons for grand jury selection under Penal Code section 903.4 are encouraged to select candidates from the list returned by the jury commissioner or otherwise to employ a nomination procedure to ensure broad-based representation from the community.

(e) [Disfavored nominations] Judges should not nominate to the grand jury a spouse or immediate family member **(**first degree of consanguinity) of any justice court, municipal court, or superior court judge, commissioner, or referee, elected official, or department head of any city, county, or governmental entity subject to grand jury scrutiny.

Sec. 17 adopted effective July 1, 1992.

Former Section
Former sec. 17 was adopted effective January 1, 1986, and repealed effective July 1, 1991.

Sec. 17.5. Local policies on waste reduction and recycling

Each court should participate in a county program for waste reduction and recycling or adopt a program of its own.

Sec. 17.5 adopted effective January 1, 1991.

Drafter's Notes
1990—The council added section 17.5 to the Standards of Judicial Administration to encourage each court to participate in a county program for waste reduction and recycling or adopt a program of its own.

Sec. 18. Procedures for determining the need for an interpreter and a preappearance interview

(a) [When an interpreter is needed] An interpreter is needed if, after an examination of a party or witness, the court concludes that:

(1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or

(2) the witness cannot speak English so as to be understood directly by counsel, court, and jury.

(b) [When an examination is required] The court should examine a party or witness on the record to determine whether an interpreter is needed if:

(1) a party or counsel requests such an examination; or

(2) it appears to the court that the party or witness may not understand and speak English well enough to participate fully in the proceedings.

(c) [Examination of party or witness] To determine if an interpreter is needed the court should normally include questions on the following:

(1) Identification (for example: name, address, birthdate, age, place of birth);

(2) Active vocabulary in vernacular English (for example: "How did you come to the court today?" "What kind of work do you do?" "Where did you go to school?" "What was the highest grade you completed?"

"Describe what you see in the courtroom." "What have you eaten today?"). Questions should be phrased to avoid "yes or no" replies;

(3) The court proceedings (for example: the nature of the charge or the type of case before the court, the purpose of the proceedings and function of the court, the rights of a party or criminal defendant, and the responsibilities of a witness).

(d) [Record of examination] After the examination, the court should state its conclusion on the record, and the file in the case should be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

(e) [Good cause for preappearance interview] For good cause, the court should authorize a preappearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang, speech patterns, or technical terms.

Sec. 18 repealed and adopted effective January 1, 1999.

Drafter's Notes

1999—Amendments were made to sections 18 and 18.1. Section 18 recommends procedures for a court to use when determining the need for an interpreter. Section 18.1 recommends instructions for the court to give interpreters and counsel on the procedures to follow in interpreted proceedings. Sections 18.2 and 18.3 were repealed.

Sec. 18.1. Interpreted proceedings—instructing participants on procedure

(a) [Instructions to interpreters] The court or the court's designee should give the following instructions to interpreters, either orally or in writing:

(1) Do not discuss the pending proceedings with a party or witness.

(2) Do not disclose communications between counsel and client.

(3) Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the court.

(4) Inform the court if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.

(5) Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.

(6) Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, “He says. . . .”)

(7) Direct all inquiries or problems to the court and not to the witness or counsel. If necessary you may request permission to approach the bench with counsel to discuss a problem.

(8) Position yourself near the witness or party without blocking the view of the judge, jury, or counsel.

(9) Inform the court if you become fatigued during the proceedings.

(10) When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.

(11) Interpret everything, including objections.

(12) If the court finds good cause under rule 984.4(e), hold a preappearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the preappearance interview.

(13) During the preappearance interview with a non-English-speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:

(A) The witness must speak in a loud, clear voice so that the entire court and not just the interpreter can hear.

(B) The witness must direct all responses to the person asking the question, not to the interpreter.

(C) The witness must direct all questions to counsel or to the court and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.

(14) During the preappearance interview with a non-English-speaking party, give the following instructions on the procedure to be used when the non-English-speaking party is not testifying:

(A) The interpreter will interpret all statements made in open court.

(B) The party must direct any questions to counsel. The interpreter will interpret all questions to counsel and the responses. The party may not seek advice from or engage in discussion with the interpreter.

(b) [Instructions to counsel] The court or the court's designee should give the following instructions to counsel, either orally or in writing:

(1) When examining a non-English-speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if. . . .")

(2) If there is a disagreement with the interpretation, direct any objection to the court and not to the interpreter. Ask permission to approach the bench to discuss the problem.

(3) If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

Sec. 18.1 repealed and adopted effective January 1, 1999.

Drafter's Notes
1999—Amendments were made to sections 18 and 18.1. Section 18 recommends procedures for a court to use when determining the need for an interpreter. Section 18.1 recommends instructions for the court to give interpreters and counsel on the procedures to follow in interpreted proceedings. Sections 18.2 and 18.3 were repealed.

Sec. 18.2. [Repealed 1999.]

Sec. 18.2 repealed effective January 1, 1999; adopted effective July 1, 1979.

Sec. 18.3. [Repealed 1999.]

Sec. 18.3 repealed effective January 1, 1999; adopted effective July 1, 1979.

Sec. 19. Complex civil litigation

(a) [Judicial management] In complex litigation, judicial management should begin early and be applied continuously and actively, based on knowledge of the circumstances of each case.

(b) [All-purpose assignment] Complex litigation should be assigned to one judge for all purposes. If such an assignment is not possible, a single judge should be assigned to hear law and motion and discovery matters.

(Subd (b) relettered effective January 1, 2000; adopted as subd (d) effective July 1, 1982.)

(c) [Selection of judges for complex litigation assignments] In selecting judges for complex litigation assignments, the presiding judge should consider the needs of the court and the judge's ability, interest, training, experience **(**including experience with complex civil cases), and willingness to participate in educational programs related to the management of complex cases. Commissioners should not be employed in any phase of complex litigation, except under the judge's direct supervision to assist in the management of the case.

(Subd (c) amended and relettered effective January 1, 2000; adopted as subd (e) effective July 1, 1982.)

(d) [Establishing time limits] Time limits should be regularly used to expedite major phases of complex litigation. Time limits should be established early, tailored to the circumstances of each case, firmly and fairly maintained, and accompanied by other methods of sound judicial management.

(Subd (d) relettered effective January 1, 2000; adopted as subd (f) effective July 1, 1982.)

(e) [Initial case management conference—subjects for consideration] An initial case management conference with all parties represented should be conducted at the earliest practical date. Among the subjects that should be considered at such a conference are:

(1) Settling the pleadings

(2) Determining whether severance, consolidation, or coordination with other actions is desirable

(3) Scheduling discovery proceedings

(4) Issuing protective orders

(5) Arranging settlement conferences

(6) Appointing liaison counsel

(7) Scheduling dispositive motions

(8) Requiring a list of deponents and a statement of the general purpose of the depositions

(9) Providing for exchange of documents

(10) Opening a judge's working file

(11) Organizing a master list of mail addresses and telephone numbers of counsel

(12) Scheduling further conferences as necessary

(Subd (e) amended and relettered effective January 1, 2000; adopted as subd (g) effective July 1, 1982.)

(f) [Objects of conference] Principal objects of the initial case management conference are to expose at an early date the essential issues in the litigation and to suppress unnecessary and burdensome discovery procedures in the course of preparing for trial of those issues.

(Subd (f) amended and relettered effective January 1, 2000; adopted as subd (h) effective July 1, 1982.)

(g) [Preparation for trial] Litigants in complex litigation cases should be required to minimize evidentiary disputes and to organize efficiently their exhibits and other evidence prior to trial.

(Subd (g) relettered effective January 1, 2000; adopted as subd (i) effective July 1, 1982.)

(h) [Dilatory tactics] Judges involved in complex litigation should be sensitive to dilatory or abusive litigation tactics and should be prepared to invoke disciplinary procedures for violations.

(Subd (h) relettered effective January 1, 2000; adopted as subd (j) effective July 1, 1982.)

(i) [Educational programs] Judges should be encouraged to attend educational programs on the management of complex litigation.

(Subd (i) amended and relettered effective January 1, 2000; adopted as subd (k) effective July 1, 1982.)

(j) [Staff assignment] Judges assigned to handle complex cases should be given research attorney and administrative staff assistance where possible.

(Subd (j) adopted effective January 1, 2000.)

Sec. 19 amended effective January 1, 2000; previously amended effective January 1, 1995; adopted effective July 1, 1982.

Drafter's Notes

1982—Effective July 1, 1982, the Judicial Council adopted a set of suggested standards for processing "complex" civil cases—cases that require specialized management to avoid placing unnecessary burdens on the trial courts or litigants.

The suggested standards were developed by the Judicial Council Advisory Committee on Complex Litigation which was co-chaired by Judge Homer B. Thompson of the Santa Clara County Superior Court and attorney Palmer B. Madden of Walnut Creek.

The committee's conclusions are set out in a series of "comments" accompanying the proposed standards. The committee's report is based on the premise that flexible guidelines, in the form of Standards of Judicial Administration recommended by the Judicial Council, are preferable to mandatory statewide rules.

Several of the new standards are based on existing rules or guidelines that have been tried successfully in various jurisdictions.

The full text of the advisory committee's "committee comments" is available on request from the Administrative Office of the Courts.

1995—On the recommendation of the Civil and Small Claims Standing Advisory Committee, the council amended: . . . (13) section 19 of the Standards of Judicial Administration concerning complex litigation, to permit application ex parte or by noticed motion for a determination that a case is complex.

2000—Former subdivision (b) is superseded effective January 1, 2000, by rule 1812. Former subdivision (c) is superseded effective January 1, 2000, by rule 1800.

Sec. 20. Guidelines for appointment of counsel in criminal appeals

(a) [General] Each appellate court, when establishing and maintaining lists of qualified counsel for appointment in criminal appeals as required by rule 76.5,

should follow the guidelines in this section to match each appointed attorney's skills and experience with the demands of the case.

Before appointment of counsel in a case, the court should determine the demands of the case by reviewing the trial court file or by other appropriate means. In determining the demands of the case, the following factors should be considered: the length of the sentence; the novelty or complexity of the issues; the length of the trial and of the reporter's transcript; and any questions relating to the competency of trial counsel.

(b) **[Courts of Appeal]** Each Court of Appeal should maintain three lists of qualified attorneys. The lists should be based on the following minimum qualifications:

List I (For appointment to cases in which probation was granted, or the sentence is five years or less in state prison):

(1) active membership in the State Bar;

(2) attendance at one approved appellate training program;

(3) participation in one trial or appellate brief; and

(4) submission of one sample of the attorney's writing for review by the court or administrator.

List II (For appointment to cases in which the sentence is five years to fifteen years in state prison):

(1) active practice of law for 18 months in the California state courts or equivalent experience;

(2) attendance at two approved appellate training programs;

(3) completion of two appellate cases; and

(4) submission of two appellant's opening briefs written by the attorney, for review by the court or administrator.

List III (For appointment to cases in which the sentence is fifteen years to life in state prison):

(1) active practice of law for three years in the California state courts or equivalent experience;

(2) attendance at two approved appellate training programs;

(3) completion of five appellate cases; and

(4) submission of two appellant's opening briefs written by the attorney, for review by the court or administrator.

(c) [Supreme Court] The Supreme Court should maintain a list of attorneys for appointment in death penalty cases, based on the following minimum qualifications:

(1) active practice of law for four years in the California state courts or equivalent experience;

(2) attendance at three approved appellate training programs, including one program concerning the death penalty;

(3) completion of seven appellate cases, one of which involves a homicide; and

(4) submission of two appellant's opening briefs written by the attorney, one of which involves a homicide, for review by the court or administrator.

Sec. 20 adopted effective January 1, 1985.

Sec. 20.5. Guidelines for appointment of counsel for minors when time with or responsibility for the minor is disputed

(a) [Request for appointment of counsel] In any family law or other proceeding where two or more persons are disputing the division of time with **(**physical custody) or responsibility for **(**legal custody) a minor child, the court should consider the appointment of an attorney to represent the best interests of the child if requested to do so by either party, the attorney for either party, a mediator performing duties under Civil Code section 4607, a professional person making a custody recommendation under Civil Code section 4602, a court-appointed guardian ad litem or special advocate, the child, or any relative of the child; and the court may also appoint counsel on its own motion.

(Subd (a) adopted effective January 1, 1990.)

(b) **[Guidelines]** In considering the appointment of counsel for the minor, the court should take into account the following factors:

(1) whether the dispute is exceptionally intense or protracted;

(2) whether the child is subjected to stress on account of the dispute which might be alleviated by the intervention of counsel representing the child;

(3) whether an attorney representing the child would be likely to provide the court with significant information not otherwise readily available or likely to be presented;

(4) whether the dispute involves allegations that a parent, a step-parent, or other person with the parent's knowledge has physically or sexually abused the child;

(5) whether it appears that neither parent is capable of providing a stable and secure environment;

(6) whether the child is capable of verbally expressing his or her views;

(7) whether attorneys are available for appointment who are sensitive to the needs of children and the issues raised in representing them;

(8) whether the best interests of the child appear to require special representation.

(Subd (b) adopted effective January 1, 1990.)

(c) **[Contents of order]** If counsel is appointed to represent a child pursuant to subdivision **(**b), the order may specify the following:

(1) the issues regarding which the child's representation is ordered;

(2) any tasks related to the case that would benefit from the services of the attorney;

(3) the duration of the appointment, which may be extended upon a showing of good cause;

(4) the source of funds and manner of reimbursement for costs and attorney fees.

(Subd (c) adopted effective January 1, 1990.)

(d) [Two or more children] If there are two or more children, the court should consider whether there may be such a conflict between the children that one attorney cannot adequately represent them all.

(Subd (d) adopted effective January 1, 1990.)

Sec. 20.5 adopted effective January 1, 1990.

Drafter's Notes
1989—The council adopted new section 20.5 of the Standards of Judicial Administration to encourage consideration of, and set forth guidelines for, appointment of counsel for children in certain family law proceedings.

Sec. 20.6. Guidelines for determining payment for costs of appointed counsel for children in family court

(a) [General] Whenever in a proceeding under the Family Law Act counsel is appointed to represent children under Civil Code section 4606, the court should determine the ability of the parties to pay all or a portion of the cost of the counsel.

(Subd (a) adopted effective January 1, 1992.)

(b) [Presumed inability to pay] If a party is currently eligible for a fee waiver under Government Code section 68511.3 **(**in forma pauperis), the party should be deemed unable to pay any part of the costs of the appointed counsel.

(Subd (b) adopted effective January 1, 1992.)

(c) [Individual determination required] In all other cases the court should determine ability to pay based on the party's income and assets reasonably available. The court may require the party to complete and file an income and expense statement unless the party has filed one in the proceeding which represents the party's financial status at the time of the determination.

(Subd (c) adopted effective January 1, 1992.)

(d) [Time for determination] The court may make the determination of the ability to pay at the time of appointment of counsel, or thereafter at the request of the appointed counsel but not later than 30 days after the attorney is relieved as attorney of record.

(Subd (d) adopted effective January 1, 1992.)

(e) [Payment of attorney] If the court finds the parties are unable to pay all or a portion of the cost of appointed counsel, pursuant to Civil Code section 4606**(**g) it shall order the county to pay the portion the parties are unable to pay. The order may provide for progress or installment payments.

(Subd (e) adopted effective January 1, 1992.)

Sec. 20.6 adopted effective January 1, 1992.

Drafter's Notes
1992—The council added section 20.6 to implement Civil Code section 4606(g) and to establish guidelines to assist in determining financial eligibility of parties in family law proceedings to have the county pay the cost of attorneys appointed to represent their children in family law proceedings.

Sec. 21. Appearance by telephone

(a) [Recommended criteria for telephone equipment] Each court should have adequate telephone equipment for use in hearings at which counsel may appear by telephone. This equipment should

(1) permit each person participating in the hearing, whether in person or by telephone, to hear all other persons;

(2) handle at least three incoming calls at one time and place those calls into a conference call in a simple and quick manner;

(3) have a silent (visible) ringer;

(4) be simple to learn and use;

(5) be reasonable in cost; and

(6) have full-duplex, simultaneous bidirectional speaker capability.

(b) [Optional features for telephone equipment] It is desirable if the telephone equipment can

(1) dial previously stored telephone numbers;

(2) record conversations;

(3) be moved easily from location to location; and

(4) automatically queue incoming calls.

(c) [Types of matters desired to be heard by telephone] Each court should specify, by local court rule or uniform local written policy, the types of motions and hearings it considers particularly suitable for hearing by telephone appearance. The rule or policy should encourage appearance by telephone in nonevidentiary civil matters if appearance of counsel in person would not materially assist in a determination of the proceeding or in settlement of the case.

(Subd (c) as amended effective July 1, 1992; adopted effective January 1, 1989.)

(d) [Award of attorney fees] A court should consider, in awarding attorney fees under any applicable provision of law, whether an attorney is claiming fees for appearing in person in a proceeding in which that attorney could have appeared by telephone.

(e) [Local procedures for telephone appearance] Each court should adopt a local rule or uniform local written policy specifying the following:

(1) whether the court or the attorney initiates the telephone call for a telephone appearance;

(2) whether the court sets a specified time for a telephone appearance or a time range; and

(3) how the parties are notified, in advance of the hearing, of the time or time range of the telephone appearance. In those courts using a tentative ruling recording system, that notice should be part of the tentative ruling recording.

Sec. 21 as amended effective July 1, 1992; repealed and adopted effective January 1, 1989.

Drafter's Notes

1992—Section 21 was amended to encourage courts to adopt rules or policies permitting appearance by telephone in non-evidentiary civil matters if appearance of counsel in person would not materially assist in determination of the proceeding or in settlement of the case.

Sec. 22. Tentative rulings in law and motion matters

Each trial court should provide for a tentative ruling procedure for law and motion matters in civil cases which would make the rulings available at least 18 hours before the scheduled hearing. The procedure should provide notice of the views of the court in order to

(1) shorten the time for a hearing on the motion by focusing the discussion, or

(2) eliminate the need to have parties or attorneys appear at the hearing.

Sec. 22 adopted effective January 1, 1986.

Drafter's Notes

1985—The council added section 22 to the Standards of Judicial Administration recommending that trial courts have a tentative ruling procedure for law and motion matters in civil cases. The standard suggests that the ruling should be available at least 18 hours before the scheduled hearing. The goal of a tentative ruling procedure is to shorten the time for a hearing by focusing the discussion, or to eliminate the need to have the hearing.

Sec. 23. [Repealed 1998]

Sec. 23 repealed effective January 1, 1998; adopted effective January 1, 1988.

Advisory Committee Comment

1998—Repeal of this section of the Standards of Judicial Administration conforms to the recent decision by the California Supreme Court overturning the parental consent to abortion statute.

Sec. 24. Juvenile Court Matters

(a) [Assignments to juvenile court] The presiding judge of the superior court should assign judges to the juvenile court to serve for a minimum of three years. Priority should be given to judges who have expressed an interest in the assignment.

(Subd (a) adopted effective July 1, 1989.)

Advisory Committee Comment

Considering the constantly evolving changes in the law, as well as the unique nature of the proceedings in juvenile court, the juvenile court judge should be willing to commit to a tenure of three years. Not only does this tenure afford the judge the opportunity to become well acquainted with the total juvenile justice complex, but it also provides continuity to a system that demands it.

Dependency cases under Welfare and Institutions Code section 300 for the most part last 18 months. The juvenile court judge has a responsibility to oversee these cases and a single judge's involvement over this period of time is important to help ensure positive results. The ultimate goal

should be to perfect a system which serves the needs of both recipients and providers. This can only be done over time and with constant application of effective energy.

(b) [Importance of juvenile court] The presiding judge of the juvenile court in consultation with the presiding judge of the superior court should:

(1) Motivate and educate other judges regarding the significance of juvenile court.

(2) Work to ensure that sufficient judges and staff, facilities, and financial resources are assigned to the juvenile court to allow adequate time to hear and decide the matters before it.

(Subd (b) adopted effective July 1, 1989.)

Advisory Committee Comment

The juvenile court is an integral part of the justice system. It is only through the constant exertion of pressure to maintain resources and the continuous education of court-related personnel and administrators that the historic trend to minimize the juvenile court can be contained.

(c) [Standards of representation and compensation] The presiding judge of the juvenile court should:

(1) Encourage attorneys who practice in juvenile court, including all court-appointed and contract attorneys, to continue their practice in juvenile court for substantial periods of time. A substantial period of time is at least two years and preferably from three to five years.

(2) Confer with the county public defender, county district attorney, county counsel, and other public law office leaders and encourage them to raise the status of attorneys working in the juvenile courts as follows: hire attorneys who are interested in serving in the juvenile court for a substantial part of their career; permit and encourage attorneys, based on interest and ability, to remain in juvenile court assignments for significant periods of time; work to ensure that attorneys who have chosen to serve in the juvenile court have the same promotional and salary opportunities as attorneys practicing in other assignments within a law office.

(3) Establish minimum standards of practice to which all court-appointed and public office attorneys will be expected to conform. These standards should delineate the responsibilities of attorneys relative to investigation and evaluation of the case, preparation for and conduct of hearings, and advocacy for their respective clients.

(4) In conjunction with other leaders in the legal community, ensure that attorneys appointed in the juvenile court are compensated in a manner equivalent to attorneys appointed by the court in other types of cases.

(Subd (c) adopted effective July 1, 1992.)

Advisory Committee Comment

The quality of justice in the juvenile court is in large part dependent upon the quality of the attorneys who appear on behalf of the different parties before the court. The presiding judge of the juvenile court plays a significant role in ensuring that a sufficient number of attorneys of high quality are available to the parties appearing in juvenile court.

Juvenile court practice requires attorneys who have both a special interest in and a substantive understanding of the work of the court. Obtaining and retaining qualified attorneys for the juvenile court requires effective recruiting, training, and employment considerations.

The importance of juvenile court work must be stressed to ensure that juvenile court assignments have the same status and career enhancement opportunities as other assignments for public law office attorneys.

The presiding judge of the juvenile court should urge leaders of public law offices serving the juvenile court to assign experienced, interested, and capable attorneys to that court, and to establish hiring and promotional policies that will encourage the development of a division of the office dedicated to working in the juvenile court.

National commentators are in accord with these propositions: "Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced. Juvenile and family courts should not be the 'training ground' for inexperienced attorneys or judges." [Deprived Children: A Judicial Response—73 Recommendations, Report of the Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges (1986), p. 14.]

Fees paid to attorneys appearing in juvenile court are sometimes less than the fees paid attorneys doing other legal work. Such a payment scheme demeans the work of the juvenile court, leading many to believe that such work is less important. It may discourage attorneys from selecting juvenile court practice as a career option. The incarceration of a child in a detention facility or a child's permanent loss of his or her family through a termination of parental rights proceeding is at least as important as any other work in the legal system. Compensation for the legal work in the juvenile court should reflect the importance of this work.

(d) [Training and orientation] The presiding judge of the juvenile court should:

(1) Establish relevant prerequisites for court-appointed attorneys and advocates in the juvenile court.

(2) Develop orientation and in-service training programs for judicial officers, attorneys, volunteers, law enforcement personnel, court personnel, and child advocates to ensure that all are adequately trained concerning all issues relating to special education rights and responsibilities, including the right of each child with exceptional needs to receive a free, appropriate public education and the right of each child with educational disabilities to receive accommodations.

(3) Promote the establishment of a library or other resource center in which information about juvenile court practice (including books, periodicals, videotapes, and other training materials) can be collected and made available to all participants in the juvenile system.

(4) Ensure that attorneys who appear in juvenile court have sufficient training to perform their jobs competently, as follows: require that all court-appointed attorneys meet minimum training and continuing legal education standards as a condition of their appointment to juvenile court matters; and encourage the leaders of public law offices that have responsibilities in juvenile court to require their attorneys who appear in juvenile court to have at least the same training and continuing legal education required of court-appointed attorneys.

(Subd (d) amended effective January 1, 2001; adopted effective July 1, 1989; previously amended and relettered effective July 1, 1992.)

Advisory Committee Comment

Juvenile court law is a specialized area of the law that requires dedication and study. The juvenile court judge has a responsibility to maintain high quality in the practice of law in the juvenile court. The quality of representation in the juvenile court depends in good part on the education of the lawyers who appear there. In order to make certain that all parties receive adequate representation, it is important that attorneys have adequate training before they begin practice in juvenile court and on a continuing basis thereafter. The presiding judge of the juvenile court should mandate such training for all court-appointed attorneys and urge leaders of public law offices to provide at least comparable training for attorneys assigned to juvenile court.

A minimum of six (6) hours of continuing legal education is suggested; more hours are recommended. Education methods can include lectures and tapes which meet the legal education requirements.

In addition to basic legal training in juvenile dependency and delinquency law, evidentiary issues, and effective trial practice techniques, training should also include important related issues, including but not limited to child development, alternative resources for families, effects and treatment of substance abuse, domestic violence, abuse, neglect, modification and enforcement of

all court orders, dependency, delinquency, guardianships, conservatorships, interviewing children, and emancipation. Education may also include observational experience such as site visits to institutions and operations critical to the juvenile court.

A significant barrier to the establishment and maintenance of well-trained attorneys is a lack of educational materials relating to juvenile court practice. Law libraries, law offices, and court systems traditionally do not devote adequate resources to the purchase of such educational materials.

Effective January 1, 1993, guidelines and training material will be available from the Administrative Office of the Courts.

(e) [Unique role of a juvenile court judge] Judges of the juvenile court in consultation with the presiding judge of the juvenile court and the presiding judge of the superior court, to the extent that it does not interfere with the adjudication process, are encouraged to:

(1) Provide active leadership within the community in determining the needs and obtaining and developing resources and services for at-risk children and families. At-risk children include delinquents, dependents, and status offenders.

(2) Investigate and determine the availability of specific prevention, intervention, and treatment services in the community for at-risk children and their families.

(3) Exercise their authority by statute or rule to review, order, and enforce the delivery of specific services and treatment for children at risk and their families.

(4) Exercise a leadership role in the development and maintenance of permanent programs of interagency cooperation and coordination among the court and the various public agencies that serve at-risk children and their families.

(5) Take an active part in the formation of a community-wide network to promote and unify private and public sector efforts to focus attention and resources for at-risk children and their families.

(6) Maintain close liaison with school authorities and encourage coordination of policies and programs.

(7) Educate the community and its institutions through every available means including the media concerning the role of the juvenile court in meeting the complex needs of at-risk children and their families.

(8) Evaluate the criteria established by child protection agencies for initial removal and reunification decisions and communicate the court's expectations of what constitutes "reasonable efforts" to prevent removal or hasten return of the child.

(9) Encourage the development of community services and resources to assist homeless, truant, runaway, and incorrigible children.

(10) Be familiar with all detention facilities, placements, and institutions used by the court.

(11) Act in all instances consistent with the public safety and welfare.

(Subd (e) as relettered effective July 1, 1992; adopted effective July 1, 1989.)

Advisory Committee Comment

A superior court judge assigned to the juvenile court occupies a unique position within California's judiciary. In addition to the traditional role of fairly and efficiently resolving disputes before the court, the juvenile court judge is statutorily required to discharge other duties. California law empowers the juvenile court judge not only to order services for children under its jurisdiction, but also to enforce and review the delivery of those services. This oversight function includes the obligation to understand and work with the public and private agencies, including school systems, that provide services and treatment programs for children and families. As such the juvenile court assignment requires a dramatic shift in emphasis from judging in the traditional sense.

The legislative directive to juvenile court judges to "improve system performance in a vigorous and ongoing manner" (Welf. & Inst. Code, § 202) poses no conflict with traditional concepts of judicial ethics. Active and public judicial support and encouragement of programs serving children and families at-risk are important functions of the juvenile court judge which enhance the overall administration of justice.

The standards in subdivision (e) are derived from statutory requirements in the following sections of the Welfare and Institutions Code as well as the supplementary material promulgated by the National Council of Juvenile and Family Court Judges and others: (1) Welfare and Institutions Code sections 202, 209, 300, 317, 318, 319, 362, 600, 601, 654, 702, 727; (2) California Code of Judicial Conduct, canon 4; (3) [Deprived Children: A Judicial Response—73 Recommendations, Report of Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges (1986), Recommendations 1–7, 14, 35, 40]; (4) Report from the National Council of Juvenile and Family Court Judges, Child Welfare League of America, Youth Law Center, and the

National Center for Youth Law, "Making Reasonable Efforts: Steps for Keeping Families Together," pages 43-59.

(f) [Appointment of attorneys and other persons] For the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and other persons, each court should follow the guidelines of section 1.5 of the California Standards of Judicial Administration.

(Subd (f) adopted effective January 1, 1999.)

(g) [Educational rights of children in the juvenile court] The juvenile court should be guided by certain general principles:

(1) A significant number of children in the juvenile court process have exceptional needs that, if properly identified and assessed, would qualify such children to receive special education and related services under federal and state education law (a free, appropriate public education) (see Ed. Code, § 56000 et seq. and 20 U.S.C. § 1400 et seq.);

(2) Many children in the juvenile court process have disabilities that, if properly identified and assessed, would qualify such children to receive educational accommodations (see § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.]);

(3) Unidentified and unremediated exceptional needs and unaccommodated disabilities have been found to correlate strongly with juvenile delinquency, substance abuse, mental health issues, teenage pregnancy, school failure and dropout, and adult unemployment and crime; and

(4) The cost of incarcerating children is substantially greater than the cost of providing special education and related services to exceptional needs children and providing educational accommodations to children with disabilities.

(Subd (g) adopted effective January 1, 2001.)

(h) [Role of the juvenile court] The juvenile court should:

(1) Take responsibility, with the other juvenile court participants at every stage of the child's case, to ensure that the child's educational needs are met, regardless of whether the child is in the custody of a parent or is suitably placed in the custody of the child welfare agency or probation department and regardless of where the child is placed in school. Each

child under the jurisdiction of the juvenile court with exceptional needs has the right to receive a free, appropriate public education, specially designed, at no cost to the parents, to meet the child's unique special education needs. (See Ed. Code, § 56031 and 20 U.S.C. § 1401(8).) Each child with disabilities under the jurisdiction of the juvenile court has the right to receive accommodations. (See § 504 of the Rehabilitation Act of 1973 [29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)]). The court should also ensure that each parent or guardian receives information and assistance concerning his or her child's educational entitlements as provided by law.

(2) Provide oversight of the social service and probation agencies to ensure that a child's educational rights are investigated, reported, and monitored. The court should work within the statutory framework to accommodate the sharing of information between agencies. A child who comes before the court and is suspected of having exceptional needs or other educational disabilities should be referred in writing for an assessment to the child's school principal or to the school district's special education office. (See Ed. Code, §§ 56320–56329.) The child's parent, teacher, or other service provider may make the required written referral for assessment. (See Ed. Code, § 56029.)

(3) Require that court reports, case plans, assessments, and permanency plans considered by the court address a child's educational entitlements and how those entitlements are being satisfied, and contain information to assist the court in deciding whether the right of the parent or guardian to make educational decisions for the child should be limited by the court under Government Code section 7579.5. Information concerning whether the school district has met its obligation to provide educational services to the child, including special educational services if the child has exceptional needs under Education Code section 56000 et seq., and to provide accommodations if the child has disabilities as defined in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq. (1980)) should also be included, along with a recommendation for disposition.

(4) Facilitate coordination of services by joining the local educational agency as a party when it appears that an educational agency has failed to fulfill its legal obligations to provide special education and related services or accommodations to a child in the juvenile court who has been identified as having exceptional needs or educational disabilities. (See Welf. & Inst. Code, §§ 362(a), 727(a).)

(5) Make appropriate orders limiting the educational rights of a parent or guardian who cannot be located or identified, or who is unwilling or unable to be an active participant in ensuring that the child's special educational needs are met, and request that the local education agency appoint a surrogate parent for such child. (Gov. Code, § 7579.5.)

(6) Ensure that special education, related services, and accommodations to which the child is entitled are provided whenever the child's school placement changes. (See Ed. Code, § 56325.)

(Subd (h) adopted effective January 1, 2001.)

Sec. 24 amended effective January 1, 2001; adopted effective January 1, 1989; previously amended effective July 1, 1992, and January 1, 1999.

Drafter's Notes
1992—Section 24 was amended to encourage minimum standards for attorneys in juvenile court.

1999—The new rule prohibits discrimination in the appointment of attorneys, arbitrators, mediators, referees, masters, receivers, and others appointed by the court. The standards recommend (1) that courts establish recruitment procedures for court appointments, including publicizing vacancies at least once a year; and (2) that courts selecting members to serve on committees establish a procedure to ensure that all qualified persons have equal access to the selection process.

2001—This section provides guidance to the juvenile court regarding the educational rights of children. A special education training component for judicial officers, court personnel, attorneys, volunteers, law enforcement personnel, and child advocates is included. The section also provides principles concerning special education to guide the juvenile court and clarifies the court's role in taking responsibility for the education of children under the jurisdiction of the juvenile court.

Sec. 24.5. Resource guidelines for child abuse and neglect cases

(a) [Guidelines] To improve the fair and efficient administration of child abuse and neglect cases in the California juvenile dependency system, judges and judicial officers assigned to the juvenile court, in consultation with the presiding judge of the juvenile court and the presiding judge of the superior or consolidated court, are encouraged to follow the resource guidelines of the National Council of Juvenile and Family Court Judges, entitled "Resource Guidelines: Improving Court Practice in Child Abuse & Neglect Cases." The guidelines are meant to be goals to help courts achieve, among other objectives, the following:

(1) Adherence to statutory timelines;

(2) Effective calendar management;

(3) Effective representation by counsel;

(4) Child-friendly court facilities;

(5) Timely and thorough reports and services to ensure informed judicial decisions, including reasonable efforts findings; and

(6) Minimum time allocations for specified hearings.

(b) [Distribution of guidelines] The Administrative Office of the Courts will distribute a copy of the resource guidelines to each juvenile court and will provide individual copies to judicial officers and court administrators upon written request.

Sec. 24.5 adopted effective July 1, 1997.

Advisory Committee Comment

Child abuse and neglect cases impose a special obligation on juvenile court judges to oversee case progress. Case oversight includes monitoring the agency's fulfillment of its responsibilities and parental cooperation with the case plan. Court involvement in child welfare cases occurs simultaneously with agency efforts to assist the family. Federal and state legal mandates assign to the juvenile court a series of interrelated and complex decisions that shape the course of state intervention and determine the future of the child and family.

Unlike almost all other types of cases in the court system, child abuse and neglect cases deal with an ongoing and changing situation. In a child welfare case, the court must focus on agency casework and parental behavior over an extended period of time. In making a decision, the court must take into account the agency's plan to help the family and anticipated changes in parental behavior. At the same time, the court must consider the evolving circumstances and needs of each child.

The purpose of these resource guidelines is to set forth the essential elements of properly conducted court hearings. The guidelines describe the requirements of juvenile courts in fulfilling their oversight role under federal and state laws, and they specify the necessary elements of a fair, thorough, and speedy court process in child abuse and neglect cases. The guidelines cover all stages of the court process, from the initial removal hearing to the end of juvenile court involvement. These guidelines assume that the court will remain involved until after the child has been safely returned home, has been placed in another permanent home, or has reached adulthood.

Currently, juvenile courts in California operate under the same juvenile court law and rules, and yet the rules are implemented with considerable variation throughout the state. In part, this is due to the lack of resource guidelines. The adoption of the proposed resource guidelines will help encourage more consistent juvenile court procedures in the state.

The guidelines are meant to be goals, and as such, some of them may appear out of reach because of fiscal constraints or lack of judicial and staff resources. The Judicial Council Family and Juvenile Law Advisory Committee and staff of the Administrative Office of the Courts are committed to providing technical assistance to each juvenile court to aid in implementing these goals.

Former Section
Former sec. 24.5 adopted effective July 1, 1992; repealed effective July 1, 1994. The repealed section related to program guidelines for court-appointed special advocate (CASA) programs.

Sec. 24.6. Uniform standards of practice for court-connected child protection/dependency mediation

(a) [Purpose] This sets forth standards of practice and administration for court-connected dependency mediation services in accordance with Welfare and Institutions Code section 350.

(b) [Definitions]

(1) "Dependency mediation" is a confidential process conducted by specially trained, neutral third-party mediators who have no decision-making power. Dependency mediation provides a nonadversarial setting in which a mediator assists the parties in reaching a fully informed and mutually acceptable resolution that focuses on the child's safety and best interest and the safety of all family members. Dependency mediation is concerned with any and all issues related to child protection.

(2) "Safety and best interest of the child" refers to the child's physical, psychological, and emotional well-being. Determining the safety and best interest of the child includes consideration of the following:

(A) The ongoing need of the child to cope with the issues that caused his or her involvement in the juvenile dependency system;

(B) The preservation and strengthening of the family and family relationships whenever appropriate and possible;

(C) The manner in which the child may be protected from the risk of future abuse or neglect; and

(D) The child's need for safety, stability, and permanency.

(3) "Safety of family members" refers to the physical, psychological, and emotional well-being of all family members, with consideration of the following:

(A) The role of domestic violence in creating a perceived or actual threat for the victim and

(B) The ongoing need of family members to feel safe from physical, emotional, and psychological abuse.

(4) "Differential domestic violence assessment" is a process used to assess the nature of any domestic violence issues in the family so that the mediator may conduct the mediation in such a way as to protect any victim of domestic violence from intimidation and to correct for power imbalances created by past violence and feared prospective violence.

(c) [Responsibility for mediation services]

(1) Each court should ensure that:

(A) Dependency mediators are impartial, are competent, and uphold the standards of practice contained in this section;

(B) Dependency mediators maintain an appropriate focus on issues related to the child's safety and best interest and the safety of all family members;

(C) Dependency mediators provide a forum for all interested persons to develop a plan focused on the best interest of the child, emphasizing family preservation and strengthening and the child's need for permanency;

(D) Dependency mediation services and case management procedures are consistent with applicable state law without compromising each party's right to due process and a timely resolution of the issues;

(E) Dependency mediation services demonstrate accountability by:

(i) Providing for the processing of complaints about a mediator's performance and

(ii) Participating in any statewide and national data collection efforts;

(F) The dependency mediation program uses an intake process that screens for and informs the mediator about any restraining orders, domestic violence, or safety-related issues affecting the child or any other party named in the proceedings;

(G) Whenever possible, dependency mediation should be conducted in the shared language of the participants. When the participants speak different languages, interpreters, court-certified when possible, should be assigned to translate at the mediation session; and

(H) Dependency mediation services preserve, in accordance with pertinent law, party confidentiality, whether written or oral, by the:

(i) Storage and disposal of records and any personal information accumulated by the mediation program and

(ii) Management of any new child abuse reports and related documents.

(2) Each dependency mediator should:

(A) Assist the mediation participants in reaching a settlement of the issues that is consistent with preserving the safety and best interest of the child, first and foremost, and the safety of all family members and participants;

(B) Discourage participants from blaming the victim and from denying or minimizing allegations of child abuse or violence against any family member;

(C) Be conscious of the values of family preservation and strengthening as well as the child's need for permanency;

(D) Not make any recommendations or reports of any kind to the court, except as to the terms of any agreement reached by the parties;

(E) Treat all mediation participants in a manner preserving their dignity and self-respect;

(F) Ensure a safe and balanced environment for all participants to express and advocate their positions and interests;

(G) Identify and disclose potential grounds upon which a mediator's impartiality might reasonably be challenged through a procedure that allows for the selection of another mediator within a reasonable time. If a dependency mediation program has only one mediator and the parties are unable to resolve the conflict, the mediator should so inform the court;

(H) Identify and immediately disclose any reasonable concern regarding the mediator's continuing capacity to be impartial, through a procedure that allows the participants to explore the matter and determine whether the mediator should withdraw or continue;

(I) Ensure that all participants understand the status of the case in relation to the ongoing court process, what the case plan requires of them, and the terms of any agreement reached during the mediation; and

(J) Conduct appropriate review to evaluate the viability of any agreement reached, including the identification of any provision that depends on the action or behavior of any individual who did not participate in creating the agreement.

(d) [Mediation process] The dependency mediation process should be conducted in accordance with pertinent state laws, and all applicable rules of court, and should include local protocols. All local protocols should include the following:

(1) The process by which cases are sent to mediation, including:

(A) Who may request mediation;

(B) Who decides which cases are to be sent to mediation;

(C) Whether mediation is voluntary or mandatory;

(D) How mediation appointments are scheduled; and

(E) The consequences, if any, to a party who fails to participate in the mediation session.

(2) Identification of the participants in the mediation, according to the following guidelines:

(A) When at all possible, dependency mediation should include the direct and active participation of the parents, a representative of the child protective agency, and, at one stage or another, their respective attorneys.

(B) As appropriate, the child who is the subject of the proceeding, other family members, and any guardian ad litem, Court Appointed Special Advocate (CASA), or other involved person or professional may participate in the mediation.

(C) Any attorney who has not participated in the mediation should have an opportunity to review and agree to any proposal before it is submitted to the court for approval.

(D) A mediation participant who has been a victim of violence allegedly perpetrated by another mediation participant has the right to be accompanied by a support person. Unless otherwise invited or ordered to participate under the protocols developed by the court, such a support person may not actively participate in the mediation except to act as emotional support for the alleged victim.

(3) A means by which the mediator may review relevant case information before the mediation.

(4) A protocol for providing mediation in cases in which domestic violence or violence perpetrated by any other mediation participant has, or allegedly has, occurred. Such a protocol should include specialized procedures designed to protect victims of domestic violence from intimidation by perpetrators.

The protocol should also appropriately address all family violence issues by encouraging the incorporation of appropriate safety and treatment interventions in any settlement. The protocol should include the following:

(A) A review of case-related information prior to commencing the mediation;

(B) The performance of a differential domestic violence assessment to determine the nature of the violence, for the purposes of:

(i) Assessing the ability of the victim to fully and safely participate and to reach a noncoerced settlement;

(ii) Clarifying the history and dynamics of the domestic violence issue in order to determine the most appropriate manner in which the mediation can proceed;

(iii) Assisting the parties, attorneys, and other participants in formulating an agreement following a discussion of appropriate safeguards for the safety of the child and family members;

(C) Structuring the mediation in a manner designed to meet the need of the victim of violence for safety and for full and noncoerced participation in the process, including:

(i) Giving the victim of violence the option of attending mediation sessions without the alleged perpetrator being present;

(ii) Permitting the victim to have a support person present during the mediation process, whether he or she elects to be seen separately from or together with the alleged perpetrator; and

(iii) Identifying the participants as provided in subdivision (d)(2) above.

(5) The provision of an oral or written orientation that facilitates participants' safe, productive, and informed participation and decision making by educating them about:

(A) How the mediation process is conducted, who generally participates in the sessions, the range of disputes that may be discussed, and what to expect at the conclusion of mediation;

(B) The mediator's role and any limitations on the confidentiality of the process; and

(C) The right of a participant who has been a victim of violence allegedly perpetrated by another mediation participant to be accompanied by a support person and to have sessions with the mediators separate from the alleged perpetrator.

(6) Protocols related to the inclusion of minors in the mediation, including:

(A) Criteria for determining whether or not a minor should participate in mediation, including the following:

(i) The age of the child;

(ii) The issues to be discussed at the mediation; and

(iii) The emotional stability of the child and his or her ability to participate without compromising his or her emotional well-being;

(B) A protocol for a child's involvement, in those cases in which a child participates in the mediation, including a requirement to explain the mediation process to a participating child in an age-appropriate way. The following information should be explained to the child:

(i) Any options available to the minor for his or her participation in the mediation;

(ii) What occurs during the mediation process;

(iii) The role of the mediator;

(iv) What the child may realistically expect from the mediation, and the limits on his or her ability to affect the outcome;

(v) Any limitations on the confidentiality of the process;

(vi) The child's absolute right to be accompanied, throughout the mediation, by his or her attorney and other support persons; and

(vii) The child's ability to take a break or terminate the mediation session if his or her emotional or physical well-being is threatened.

(7) Policy and procedures for scheduling follow-up mediation sessions.

(8) A procedure for suspending or terminating the process if the mediator determines that mediation cannot be conducted in a safe or an appropriately balanced manner or if any party is unable to participate in an informed manner for any reason, including fear or intimidation.

(9) A procedure for ensuring that each participant clearly understands any agreement reached during the mediation, as well as a procedure for presenting the agreement to the court for its approval. Such procedure should include the requirement that all parties and the attorneys participating in the agreement review and approve it and indicate their agreement in writing prior to its submission to the court.

(e) [Training and experience requirements for dependency mediators] Dependency mediators should meet the following minimum qualifications:

(1) Possession of one or more of the following:

(A) A master's or doctoral degree in psychology, social work, marriage and family therapy, conflict resolution, or other behavioral science substantially related to family relationships, family violence, child development, or conflict resolution from an accredited college or university;

(B) A Juris Doctor degree with demonstrated experience in the field of juvenile or family law; or

(C) A background in mediation along with training and/or experience acceptable to the court to be served;

(2) At least three years of experience in mediation, counseling, psychotherapy, or any combination thereof, preferably in a setting related to juvenile dependency court or domestic relations and with the ethnic population to be served; or at least two years of experience as an attorney, a referee, or a judicial officer, practicing in juvenile dependency court or domestic relations with the ethnic population to be served;

(3) Demonstrated knowledge of the juvenile court dependency system and the child welfare and protection systems, as well as the ability to interpret and apply laws, rules, regulations, and procedures as they relate to the

dependency mediation court system and the process in which the mediations are conducted; and

(4) A minimum of 40 hours of mediation training and demonstrated ability to mediate multiparty, high-conflict cases.

(f) [Substitution for training and experience requirements—subsequent training] Those mediators who do not already possess dependency experience or training may substitute the completion of at least 24 hours of training within 12 months of employment, as follows:

(1) At least 16 hours of the training should cover the following subject areas:

(A) The dynamics of physical and sexual abuse, exploitation, emotional abuse, endangerment, and neglect of children, and their impacts on children;

(B) Child development and its relevance to the needs of children, to child abuse and neglect, and to child custody and visitation arrangements;

(C) The dynamics of domestic and family violence, its relevance to child abuse and neglect, and its effects on children and adult victims;

(D) Substance abuse and its impact on children;

(E) The roles and participation of parents, other family members, children, attorneys, guardians ad litem, the child welfare agency staff, Court Appointed Special Advocates (CASAs), law enforcement, mediators, the court, and other involved professionals and interested participants in the mediation process; and

(F) Dependency law.

(2) The remaining eight hours of required training may cover any of the topics above or any of the following:

(A) The dynamics of disclosure and recantation and of denial of child abuse and neglect;

(B) Adult and child psychopathology;

(C) The psychology of families, the dynamics of family systems, and the impacts of separation, divorce, and family conflict on children;

(D) Safety and treatment issues related to child abuse, neglect, and family violence;

(E) Available community resources for dealing with domestic and family violence; substance abuse; and housing, educational, medical, and mental health needs in addition to related services for families in the juvenile dependency system, such as regional centers;

(F) The impacts that the mediation process can have on children's well-being and behavior, and when and how to involve children in mediation;

(G) Methods to assist parties in developing options for different parenting arrangements that consider the needs of children and each parent's capacity to parent;

(H) Awareness of differing cultural values, including the dynamics of cross-generational cultural issues;

(I) The Americans with Disabilities Act, its requirements, and strategies for handling situations involving disability issues or special needs;

(J) The effect on family dynamics of removal or nonremoval of children from their homes and family members, including the related implications for the mediation process;

(K) The effect of poverty on family dynamics and parenting; and

(L) An overview of the special needs of dependent children, including their educational, medical, and psychosocial needs as well as the resources available to meet those needs.

(g) [Volunteers, interns, or paraprofessionals] Dependency mediation programs may use volunteers, interns, or paraprofessionals as mediators, but only if they work with a professional mediator who is qualified to act as a professional dependency mediator as described in subdivision **(**e) of this standard. Any such volunteers, interns, or paraprofessionals should be exempt from the minimum qualification standards numbered **(**e)2 and 3 above.

(h) [Substitution for education or experience] The juvenile dependency court may substitute additional experience for a portion of the education, or additional education for a portion of the experience, required by subdivisions **(**e) and **(**f) above.

(i) [Continuing education requirements for mediators and mediation supervisors] All dependency mediators, mediation supervisors, and program coordinators and directors should participate in at least 15 hours per year of continuing instruction designed to enhance mediation skills and techniques, including at least 5 hours specifically related to the issue of family violence.

(j) [Ethics/standards of conduct] Mediators should**:**

(1) Meet the practice and ethical standards of the applicable code of ethics for court employees.

(2) Maintain objectivity, provide information to and gather information from all parties, and control for bias.

(3) Protect the confidentiality of all parties, including the child. Mediators should not release information or make any recommendations about the case to the court or to any individual except as compelled by statute (for example, the requirement to make mandatory child abuse reports or reports to authorities regarding threats of harm and/or violence). Any limitations to confidentiality should be clearly explained to all mediation participants before any substantive issues are discussed in the mediation session.

(4) Decline to provide legal advice.

(5) Strive to maintain the confidential relationship between any family member or the child and his or her treating counselor, including the confidentiality of any psychological evaluations.

(6) Consider the health, safety, welfare, and best interest of the child and the safety of all parties and other participants in all phases of the process, and encourage the formulation of settlements preserving these values.

(7) Operate within the limits of his or her training and experience, and disclose any limitations or bias that would affect his or her ability to conduct the mediation.

(8) Not require the child to state a preference for placement.

(9) Disclose to the court, to any participant, and to his or her attorney any conflicts of interest or dual relationships, and not accept any referral except by court order or the parties' stipulation. In the event of a conflict of interest, the mediator should suspend mediation and meet and confer in an effort to resolve the conflict of interest either to the satisfaction of all parties or according to local court rules. The court may order mediation to continue with another mediator or offer the parties an alternative method of resolving the issues in dispute.

(10) Not knowingly assist the parties in reaching an agreement that would be unenforceable for a reason such as fraud, duress, illegality, overreaching, absence of bargaining ability, or unconscionability.

(11) Protect the integrity of the mediation process by terminating the mediation when a party or participant has no genuine interest in resolving the dispute and is abusing the process.

(12) Terminate any session in which an issue of coercion, inability to participate, lack of intention to resolve the issues at hand, or physical or emotional abuse during the mediation session is involved.

Sec. 24.6 adopted effective January 1, 2001.

Advisory Committee Comment

2001—These standards are consistent with the manual *Resource Guidelines–Improving Court Practice in Child Abuse and Neglect Cases* and related recommendations of the National Council of Juvenile and Family Court Judges.

Drafter's Notes

2001—These standards describe the responsibilities of courts and mediators for mediation programs; outline the procedures that should be included in local protocols; describe the minimum qualifications and ongoing education requirements for mediators; and list ethical standards of conduct.

Sec. 25. Judicial branch education

(a) [Purpose] Judicial branch education for all trial and appellate judicial officers and court employees is essential to improving the fair, effective, and efficient administration of justice. Judicial branch education is acknowledged as a vital component in achieving the goals of the Judicial Council's Long-Range Strategic Plan, including access and fairness, branch independence,

modernization, and quality of justice. The Judicial Council has charged the Governing Committee of the Center for Judicial Education and Research (CJER), as an advisory committee to the council, with developing and maintaining a comprehensive and quality education program on behalf of the Judicial Council for the California judicial branch. Judicial officers and court employees should consider participation in education activities to be part of their official duties. The responsibility for planning, conducting, and overseeing judicial branch education properly resides in the judicial branch. Standards for judicial branch education are set forth in sections 25.1–25.6 of the California Standards of Judicial Administration.

(b) [Education objectives] Judicial officers, court employees, educational committees, and others who plan educational programs should endeavor to achieve the following objectives:

(1) Provide judicial officers and court employees with the knowledge, skills, and techniques required to competently perform their responsibilities fairly and efficiently;

(2) Assist judicial officers and court employees in preserving the integrity and impartiality of the judicial system through the prevention of bias;

(3) Promote judicial officer and court employee adherence to the highest ideals of personal and official conduct as set forth in the California Code of Judicial Ethics and the Code of Ethics for the Court Employees of California, respectively;

(4) Improve the administration of justice, reduce court delay, and promote fair and efficient management of court proceedings;

(5) Promote standardized court practices and procedures; and

(6) Implement the Standards of Judicial Administration recommended by the Judicial Council.

(c) [Elements of comprehensive education program] The Governing Committee of CJER is responsible for developing and maintaining a comprehensive and quality education program for the judicial branch. This comprehensive education program is implemented by CJER as the education division of the Administrative Office of the Courts **(**AOC). It should be designed to meet the educational needs and requirements of judicial officers and court employees as

set forth in sections 25.1–25.6 of the Standards of Judicial Administration and should include the following elements:

(1) Developing curricula (instructional and participant materials) for all judicial and administrative courses along a continuum including basic and continuing education. Curricula for judicial courses should cover applicable substantive and procedural law.

(2) Providing directly a range of education programs at the statewide, regional, and local levels, and facilitating the sharing of local and regional court education resources.

(3) Developing skills-based curricula for judicial officers and court employees focused on learning practical skills, including management skills training and technology skills training.

(4) Conducting train-the-trainer programs for judicial officers and court employees to develop a large group of experienced faculty that can deliver and support the delivery of curricula at the local and regional level.

(5) Providing technical assistance and other assistance, coordination, and support for local education programs, including curricula, written materials, videotapes, and trained faculty. This element is particularly important in providing sufficient education opportunities for court employees.

(6) Developing and distributing a range of publications, audio- and videotapes, and other education services, including both electronic and print media.

(7) Developing alternative delivery of judicial branch education services by means of distance learning, such as delivery of live programs on the Internet, satellite broadcasting, videoconferencing, CD-ROM and Internet publishing, and computer-based instruction.

(8) Developing comprehensive materials to support ongoing efforts and provide a range of opportunities in the critical area of fairness education for judicial officers and court employees.

(9) Developing comprehensive materials in order to provide a range of opportunities in management training and leadership development for

both judicial officers and court employees, including substantial skills-based training. Course development in this area should recognize the differences in managing courts of different sizes.

(10) Publishing and distributing on a regular basis a catalog or compendium of education opportunities available at the state and local levels, including programs, audio- and videotapes, publications, and other education services.

Sec. 25 adopted effective January 1, 1999.

Drafter's Notes
1999—New and amended standards 8.8, 25 – 25.6 consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted.

Sec. 25.1. General judicial education standards

(a) [Judicial education generally] Judicial education for all judicial officers is essential to enhancing the fair and efficient administration of justice. Judicial officers should consider participation in judicial education activities to be an official judicial duty. The responsibility for planning, conducting, and overseeing judicial education properly rests in the judiciary.

(Subd (a) amended effective January 1, 1999; adopted effective January 1, 1990.)

Judicial Council Comments
1. This provision recognizes that judicial officers must develop, maintain, and improve their professional competence by participating in judicial orientation and training programs when they first assume their judicial positions, and thereafter in continuing education programs throughout their judicial careers.

2. The judiciary will assess its own educational needs and establish appropriate programs and tools for meeting those needs. Various judicial organizations in this state, such as the Administrative Office of the Courts, the California Judges Association, and the California Center for Judicial Education and Research, provide judicial officers with comprehensive educational opportunities in all areas of their judicial responsibilities. These organizations typically use experienced judicial officers to plan, conduct, oversee, and evaluate the effectiveness of their programs. Judicial officers determine all aspects of the programs offered by the California Judges Association. The California Center for Judicial Education and Research is governed by an eleven-member governing committee appointed by the Chief Justice of California as Chairperson of the Judicial Council. Four of the judicial members are nominated by the California Judges Association and four are appointed on behalf of the Judicial Council; three court administrator members are

appointed on behalf of the Judicial Council. Subject to the Judicial Council's authority, the committee is responsible for determining matters relating to the center's judicial branch education policies and for making recommendations to the Judicial Council for action thereon. The center's educational activities are planned, conducted, and overseen by a broad base of judicial officers and administrators serving on planning committees under the governing committee's supervision.

(b) [Responsibilities of presiding judges and justices] Presiding judges and justices should establish judicial education plans for their courts which facilitate the participation of judicial officers as both students and faculty at judicial education programs, as prescribed by these standards. They should also use their assignment powers to make appropriate replacements for judicial officers assigned to special calendar courts to permit them to participate in judicial education activities.

(Subd (b) amended effective January 1, 1999; adopted effective January 1, 1990.)

Judicial Council Comments

1. Although caseloads and court calendars may make it difficult for presiding judges and justices to permit judicial officers from their courts to participate in judicial education programs, their cooperation and preparation of orderly judicial education plans for all the judicial officers of their respective courts is important to the ultimate effectiveness of judicial education in this state.

2. Judicial officers who serve as faculty at judicial education programs are assumed to derive educational benefits comparable to, if not greater than, those received by student participants.

3. A judicial officer assigned to a special calendar court, such as family or juvenile, may not be able to participate in judicial education programs unless another judicial officer is assigned to handle that calendar while he or she is away.

(c) [Judicial educational objectives] Judicial officers, educational committees, and others who plan educational programs should endeavor to achieve the objectives set forth in Standards of Judicial Administration, section 25**(**b).

(Subd (c) amended effective January 1, 1999; adopted effective January 1, 1990.)

(d) [New judicial officer orientation] A new judicial officer should participate in judicial education as required under rule 970 of the California Rules of Court.

(Subd (d) amended effective January 1, 1999; adopted effective January 1, 1990.)

Judicial Council Comments

1. This provision specifies the minimum orientation that new judicial officers should receive. In addition, a new trial judicial officer with limited recent courtroom experience may, for example, need to participate in a clinic court program, which would include a one-week assignment to a

designated clinic court, other than his or her own court, or to undertake other judicial education designed to develop or polish courtroom skills.

2. Before assuming the bench, a new judicial officer will receive judicial publications and orientation materials from the California Judges Association and the California Center for Judicial Education and Research. Under the center's advisor judge program, the new trial judicial officer's presiding judge will also appoint an advisor or mentor judge for the new judicial officer when he or she first takes the bench. The advisor judge will assist the new judicial officer in making the transition to the bench.

3. Because of the comprehensiveness of the judicial college conducted by the center, a judicial officer who has not attended will still find attendance at a later time highly valuable. A judicial officer who must defer judicial college attendance should be given educational leave to do so in a subsequent year, in addition to any continuing education leave he or she may be entitled to under subdivision (e).

(e) [Continuing judicial education] After a judicial officer has completed the first year on the bench, the court should grant the judicial officer at least eight court days per calendar year to attend continuing education programs relating to the judicial officer's responsibilities or court assignment. The judicial officer should participate in education activities related to particular judicial assignments as set forth in Standards of Judicial Administration, section 25.2.

(Subd (e) amended effective January 1, 1999; adopted effective January 1, 1990.)

Judicial Council Comment

This provision specifies the minimum annual continuing education relating to a judicial officer's responsibilities or court assignment. A judicial officer with two or more assignments or special responsibilities, such as a presiding or supervising judge, may require additional continuing education. In addition, if a court has established its own local judicial education program, judicial officers of that court are encouraged to avail themselves of local educational programs, materials, and liaison projects. Although subdivision (e) refers to court days, it assumes that judicial officers will continue to attend weekend courses.

(f) [Education for retired judges] Retired judges seeking to sit on regular court assignment should participate in education activities in order to comply with the requirements of the Chief Justice's Standards and Guidelines for Judges Who Serve on Assignment.

(Subd (f) adopted effective January 1, 1999.)

(g) [Fairness education] In order to achieve the objective of assisting judicial officers in preserving the integrity and impartiality of the judicial system through the prevention of bias, all judicial officers should receive education on

fairness. The education should include the following subjects: race/ethnicity, gender, sexual orientation, persons with disabilities, and sexual harassment.

(Subd (g) adopted effective January 1, 1999.)

(h) [Service as faculty and committee members] In addition to the educational leave provided under subdivision **(**d), **(**e), or **(**g), a judicial officer should be granted leave to serve on judicial education committees and as a faculty member at judicial education programs when the judicial officer's services have been requested for these purposes by the Judicial Council, the California Judges Association, the California Center for Judicial Education and Research, or the judicial officer's court. If a court's calendar would not be adversely affected, the court should grant additional leave for a judicial officer to serve on an educational committee or as a faculty member for any judicial education provider who requests the judicial officer's services.

(Subd (h) amended effective January 1, 1999; adopted as subd (f) effective January 1, 1990.)

Judicial Council Comment

This provision recognizes the importance of judicial officers' being able to serve as lecturers, seminar leaders, consultants, and committee members for judicial education programs and projects. Faculty service is a significant educational experience for the faculty member and a significant contribution to the maintenance of necessary educational standards for the California judiciary.

(i) [Reimbursement of expenses] A judicial officer should be reimbursed, in accordance with applicable state or local rules, by his or her court for actual and necessary travel and subsistence expenses incurred in attending a judicial education program as a student participant under subdivision **(**d), **(**e), or **(**g), except to the extent that the judicial education provider sponsoring the program pays the expenses. Provisions for those expenses should be a part of every court's budget.

(Subd (i) amended effective January 1, 1999; adopted as subd (g) effective January 1, 1990.)

(j) [Application of standard to commissioners and referees] As used in this standard, unless the context or subject matter otherwise requires, "judicial officers" means justices, judges, commissioners, and referees who are court employees not engaged in the practice of law.

(Subd (j) amended effective January 1, 1999; adopted as (h) effective January 1, 1990.)

Sec. 25.1 amended and renumbered effective January 1, 1999; adopted as Sec. 25 effective January 1, 1990.

Drafter's Notes
1989—The council adopted new section 25 of the Standards of Judicial Administration to establish standards for judicial education. It also amended rules 205 and 532.5 to refer to section 25 in the list of duties of presiding judges of superior and municipal courts.

The new standard declares that "judicial education for all trial and appellate court judges is essential to enhancing the fair and efficient administration of justice. Judges should consider participation in judicial education activities to be an official judicial duty."

The new standard provides guidelines as to the amount of time to be spent on judicial education, prescribes the objectives of judicial education, and encourages presiding judges to establish education plans for judges of their courts in order to facilitate the judges' participation as both students and faculty.

The standard was developed by a joint committee of judges appointed by the California Judges Association and the Center for Judicial Education and Research. The committee, chaired by Judge Thomas M. Jenkins of the San Mateo County Superior Court, examined the judicial education practices in other states and in each California county. It also considered the requirements for the more than 35 professions for which California prescribes mandatory continuing education.

Endorsed by both the California Judges Association and the Center for Judicial Education and Research, the standard was unanimously adopted by the Judicial Council.

1999—New and amended standards 8.8, 25 – 25.6 consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted.

Sec. 25.2. Judicial education for judicial officers in particular judicial assignments

Each judicial officer, as part of his or her continuing judicial education, should participate in educational activities related to the following particular judicial assignments:

(a) [Jury trials] A judicial officer assigned to jury trials should use Center for Judicial Education and Research **(**CJER) educational materials or other appropriate materials or attend CJER or other appropriate educational programs devoted to the conduct of jury voir dire and the treatment of jurors.

(b) [Family court] Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judicial officer hearing family law matters should attend the following judicial education programs:

(1) (Basic education) Within three months of beginning a family law assignment, or within one year of beginning a family law assignment in courts with five or fewer judicial officers, the judicial officer should attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear family law matters, including retired judicial officers who sit on court assignment, should participate in appropriate family law educational programs.

(2) (Continuing education) The judicial officer should attend a periodic update on new developments in California family law and procedure.

(3) (Other education) To the extent that judicial time and resources are available, the judicial officer should attend additional educational programs on other aspects of family law, including interdisciplinary subjects relating to the family.

(c) [Juvenile dependency court] Each judicial officer whose principal judicial assignment is to hear juvenile dependency matters or who is the sole judicial officer hearing juvenile dependency matters should attend judicial education programs as follows:

(1) (Basic education) Within one year of beginning a juvenile dependency assignment, the judicial officer should receive basic education on California juvenile dependency law and procedure designed primarily for judicial officers. All other judicial officers who hear juvenile dependency matters, including retired judicial officers who sit on court assignment, should participate in appropriate educational programs, including written materials and videotapes designed for self-study.

(2) (*Continuing education*) The judicial officer should annually attend the CJER Juvenile Law and Procedure Institute and one additional education program related to juvenile dependency law, including programs sponsored by CJER, the California Judges Association, the Judicial Council, the National Judicial College, the National Council of Juvenile and Family Court Judges, and other programs approved by the presiding judge. The use of video- and audiotapes may substitute for attendance.

Sec. 25.2 adopted effective January 1, 1999.

Drafter's Notes
1999—New and amended standards 8.8, 25 – 25.6 consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted.

Sec. 25.3. Judicial education curricula provided in particular judicial assignments

The Center for Judicial Education and Research (CJER) should provide a comprehensive educational curriculum for judicial officers in the following particular judicial assignments, corresponding to those set forth in section 25.2 of the Standards of Judicial Administration:

(a) [Jury trials] CJER should develop and provide to every California trial court educational materials on jury selection and the treatment of jurors for use and review by judicial officers, court administrators, and jury staff employees.

(b) [Family court]

(1) (Comprehensive curriculum) CJER should provide a comprehensive educational curriculum for judicial officers who hear family law matters. This curriculum should include instruction in California law and procedure relevant to family matters, the effects of gender on family law proceedings, the economic effects of dissolution, and interdisciplinary subjects relating to family court matters, including but not limited to child development, substance abuse, sexual abuse of children, domestic violence, child abuse and neglect, juvenile justice, adoption, and the social service and mental health systems. It should include videotaped presentations and written materials that can be provided for local court use.

(2) (Periodic updates) CJER should conduct a periodic educational program that provides an update on new developments, innovative court practices, and fair and efficient procedures in family law.

(c) [Juvenile dependency court]

(1) (Comprehensive curriculum) CJER should provide a comprehensive curriculum on juvenile dependency law and procedure for judicial officers who hear juvenile dependency matters. The curriculum should include (i) California law and procedure relevant to juvenile dependency matters; (ii) interagency relationships; (iii) the effects of gender, race, and ethnicity on juvenile dependency proceedings; and (iv) interdisciplinary subjects

relating to juvenile law matters, including child development, child witness, substance abuse, family violence, child abuse (including sexual abuse), adoption, and stress related to the juvenile court assignment. The curriculum should also include an instruction component at the judicial college and materials for local court use and self-study.

(2) (Periodic updates) CJER should conduct an annual educational program that provides an update on new developments, innovative programs and court practices, and fair and efficient procedures in juvenile law.

Sec. 25.3 repealed and adopted effective January 1, 1999.

Drafter's Notes
1999—New and amended standards 8.8, 25 – 25.6 consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted

Former Section
Former Sec. 25.3 repealed effective January 1, 1999; adopted effective January 1, 1992. The repealed section related to family law judicial education curriculum.

Sec. 25.4. [Repealed 1999]

Sec. 25.4 repealed effective January 1, 1999; adopted effective July 1, 1997.

Sec. 25.5. [Repealed 1999]

Sec. 25.5 repealed effective January 1, 1999; adopted effective July 1, 1997.

Sec. 25.6. General court employee education standards

(a) [Court employee education generally] Court employee education for all trial and appellate court employees is essential to enhancing the fair and efficient administration of justice. The Judicial Council strives to reach all court employees with educational opportunities. Court employees should consider participation in judicial branch education activities to be an official duty. The responsibility for planning, conducting, and overseeing judicial branch education properly rests in the judicial branch.

Advisory Committee Comments
1. This provision recognizes that court employees should develop, maintain, and improve their professional competence by participating in training programs when they assume their positions and thereafter in continuing education programs throughout their careers.

2. The judicial branch should assess its own educational needs and establish appropriate programs and tools for meeting those needs.

(b) [Responsibilities of executive and administrative officers] Executive and administrative officers should develop, as a part of the annual budget process for their courts, annual education plans that facilitate employees' participation as both students and faculty in judicial branch education programs, as prescribed by this standard. The plans may designate, either locally or regionally, a training specialist to coordinate the implementation of the plans. The plans should include methods of measuring the effectiveness of education programs. A copy of the locally developed education plans should be forwarded to the Center for Judicial Education and Research **(**CJER), which will serve as a depository.

Advisory Committee Comments

1. These education plans are important for the ultimate effectiveness of judicial branch education in this state.

2. Court employees who serve as faculty at education programs are assumed to derive educational benefits comparable to, if not greater than, those received by student participants.

(c) [Court employee education objectives] Court employee educational committees and others who plan educational programs should endeavor to achieve the objectives set forth in section 25**(**b) of the Standards of Judicial Administration.

(d) [Executive and administrative officer education]

(1) Executive and administrative officers should participate in a minimum of one core course offered by the Judicial Council through CJER (e.g., a course in leadership, organizational change, technology, budgeting, community and media relations, caseflow management, management teams, team building, or strategic planning) within one year of appointment.

(2) Executive and administrative officers should annually participate in a minimum of one continuing education course or conference (e.g., California Judicial Administration Conference or Continuing Judicial Studies Program) offered by the Judicial Council through CJER or by other providers.

(3) Executive and administrative officers should participate in a course on fairness and diversity offered either locally or by the Judicial Council

through CJER by December 31, 1999, and periodically thereafter on additional diversity topics.

(4) Executive and administrative officers should make use of alternative methods of delivery of educational programming offered locally or by the Judicial Council through CJER.

(5) Executive and administrative officers should make training available to their employees on a local or regional level. This training should include an orientation program for all new employees on the background, history, and structure of the judicial branch, including the Judicial Council and the Administrative Office of the Courts.

(6) Executive and administrative officers retain authority to determine whether employees may attend an education program, based on the program's quality and relevance.

(e) [Manager education]

(1) Managers should participate annually in a minimum of one core course on leadership, management, or supervision offered locally or by the Judicial Council through CJER.

(2) Managers should participate in a course on fairness and diversity offered either locally or by the Judicial Council through CJER by December 31, 1999, and periodically thereafter on additional diversity topics.

(f) [Employee education]

(1) Employees should participate within the first year of employment in a local orientation program that includes the background, history, and structure of the judicial branch.

(2) Employees should participate in a minimum of one continuing education course annually. This course may be offered by the Judicial Council through CJER, statewide by the clerks' associations, or locally by other providers. It may include a college course that is work related.

(3) Employees should participate in a course on fairness and diversity offered either locally or by the Judicial Council through CJER by December 31, 1999, and periodically thereafter on additional diversity topics.

(4) Employees should participate in a course covering appropriate skills and conduct for working with court customers offered either by the Judicial Council through CJER or locally.

(5) Eligible employees are encouraged to participate in the Court Clerk Training Institute within five years of appointment.

(g) [Fairness education] In order to achieve the objective of assisting court employees in preserving the integrity and impartiality of the judicial system through the prevention of bias, all court employees should receive education on fairness as provided in sections 25.6**(**d**)(**3), **(**e**)(**2), and **(**f**)(**3) of the Standards of Judicial Administration. The training should include the following subjects: race/ethnicity, gender, sexual orientation, persons with disabilities, and sexual harassment.

(h) [Education on treatment of jurors] The presiding judge of each trial court should ensure that all court administrators and all court employees who interacts with jurors are properly trained in the appropriate treatment of jurors. Court administrators and jury staff employees should use CJER educational materials or other appropriate materials or attend CJER programs or other appropriate programs devoted to the treatment of jurors.

(i) [Service as faculty and committee members] In addition to participating as students in educational activities, court employees should be allowed and encouraged to serve on court employee education committees and as faculty at court employee education programs when an employee's services have been requested for these purposes by the Judicial Council, CJER, or the court.

(j) [Reimbursement of expenses] A court employee should be reimbursed, in accordance with applicable state or local rules, by his or her court for actual and necessary travel and subsistence expenses incurred in attending a court employee education program as a student participant under this standard, except to the extent that the education provider sponsoring the program pays the expenses. Provisions for these expenses should be a part of every court's budget.

Sec. 25.6 adopted effective January 1, 1999.

Drafter's Notes

1999—New and amended standards 8.8, 25 – 25.6 consolidate the standards for judicial branch education for both judges and court employees. Sections 8.8, 25.3, 25.4, and 25.5 were repealed; section 25 was amended and renumbered as 25.1; and new sections 25, 25.2, 25.3, and 25.6 were adopted

Sec. 26. [Repealed 2001]

Sec. 26 repealed effective July 1, 2001, by Rules memorandum No. R-1(99); adopted effective January 1, 1991.

Drafter's Notes

1990—The council added section 26, with commentary, to the Standards of Judicial Administration to establish uniform standards of practice for court-connected mediation of child custody and visitation disputes.

1999—Effective July 1, 2001, section 26 of the California Standards of Judicial Administration will be repealed, and new rule 1257.1, providing standards of practice for court-connected child custody mediation, will be in effect. The revised standards will better serve the growing number of pro per litigants with increasingly complex and diverse family law disputes and ensure minimum service levels and accountability. The effective date of this rule change has been extended to July 1, 2001, to allow time for each family court services unit to consider the administrative or case management changes it may need and to submit and receive funding for whatever incremental or budget development proposals are indicated.

Sec. 26.2. Uniform standards of practice for providers of supervised visitation

(a) [Scope of service] This section defines the duties and obligations for providers of supervised visitation as set forth in Family Code section 3200. Unless specified otherwise, the standards are designed to apply to all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The goal of these standards is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided. Each court is encouraged to adopt local court rules necessary to implement these standards.

(b) [Definition] Family Code section 3200 defines a provider as any individual or any supervised visitation center who monitors visitation. Supervised visitation is contact between a noncustodial party and one or more children in the presence of a neutral third person. These standards and this definition are not applicable to supervision of visitation exchanges only, but may be useful in that context.

(c) [Qualifications, experience, and training of the provider] Who provides the supervision and the manner in which supervision is provided depends on different factors including local resources, the financial situation of the parties, and the degree of risk in each case. While the court makes the final decision as

to the manner in which supervision is provided and any terms or conditions, the court may consider recommendations by the attorney for the child, the parties and their attorneys, Family Court Services staff, evaluators, therapists, and providers of supervised visitation.

There are three kinds of providers: nonprofessional, professional, and therapeutic. The minimum qualifications for providers are as follows:

(1) The nonprofessional provider is any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider should: (i) be 21 years of age or older; (ii) have no conviction for driving under the influence (DUI) within the last 5 years; (iii) not have been on probation or parole for the last 10 years; (iv) have no record of a conviction for child molestation, child abuse, or other crimes against a person; (v) have proof of automobile insurance if transporting the child; (vi) have no civil, criminal, or juvenile restraining orders within the last 10 years; (vii) have no current or past court order in which the provider is the person being supervised; (viii) not be financially dependent upon the person being supervised; (ix) have no conflict of interest as per subdivision (f) of this section; and (x) agree to adhere to and enforce the court order regarding supervised visitation.

(2) The professional provider is any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional and therapeutic provider should: (i) be 21 years of age or older; (ii) have no conviction for driving under the influence (DUI) within the last 5 years; (iii) not have been on probation or parole for the last 10 years; (iv) have no record of a conviction for child molestation, child abuse, or other crimes against a person; (v) have proof of automobile insurance if transporting the child; (vi) have no civil, criminal, or juvenile restraining orders within the last 10 years; (vii) have no current or past court order in which the provider is the person being supervised; (viii) be able to speak the language of the party being supervised and of the child, or provide a neutral interpreter over the age of 18; (ix) have no conflict of interest as per subdivision (f) of this section; and (x) agree to adhere to and enforce the court order regarding supervised visitation.

(3) The therapeutic provider is a licensed mental health professional paid for providing supervised visitation services, including but not limited to the

following: a psychiatrist, psychologist, clinical social worker, marriage and family counselor, or intern working under direct supervision. A judicial officer may order therapeutic supervision for cases requiring a clinical setting.

(4) Each court is encouraged to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation as per subdivision (i) of this section, and the legal responsibilities and obligations of a provider as per subdivisions (k) and (*l*) of this section.

In addition, the professional and therapeutic providers of supervised visitation should receive training including but not limited to the following: (i) the role of a professional and therapeutic provider; (ii) child abuse reporting laws; (iii) record-keeping procedures; (iv) screening, monitoring, and termination of visitation; (v) developmental needs of children; (vi) legal responsibilities and obligations of a provider; (vii) cultural sensitivity; (viii) conflicts of interest; (ix) confidentiality; and (x) issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(d) [Safety and security procedures] All providers should make every reasonable effort to assure the safety and welfare of the child and adults during the visitation. Supervised visitation centers should establish a written protocol with the assistance of the local law enforcement agency that describes what emergency assistance and responses can be expected from the local police or sheriff's department In addition, the professional and therapeutic provider should do all the following:

(1) Establish and set forth in writing minimum security procedures and inform the parties of these procedures prior to the commencement of supervised visitation;

(2) Conduct a comprehensive intake and screening to assess the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before the first visit. During the interview, the provider should obtain identifying information and explain the reasons for temporary suspension or termination of a visit as specified in subdivision (m) of this section. If the child is of sufficient age and capacity, the provider should include him or her in part of the intake or orientation process. Any discussion should be presented to the child in a manner appropriate to the child's developmental stage;

(3) Obtain during the intake process, (i) copies of any protective order, (ii) current court orders, (iii) any Judicial Council form relating to supervised visitation orders, (iv) a report of any written records of allegations of domestic violence or abuse, and (v) in the case of a child's chronic health condition, an account of his or her health needs;

(4) Establish written procedures to follow in the event a child is abducted during supervised visitation; and

(5) Suspend or terminate supervised visitation if the provider determines that the risk factors present are placing in jeopardy the safety and welfare of the child or provider as enumerated in subdivision (i) of this section.

(e) [Ratio of children to provider] The ratio of children to a professional provider should be contingent upon:

(1) The degree of risk factors present in each case;

(2) The nature of supervision required in each case;

(3) The number and ages of the children to be supervised during a visit;

(4) The number of people visiting the child during the visit;

(5) The duration and location of the visit; and

(6) The experience of the provider.

(f) [Conflict of interest] All providers should maintain a neutral role by refusing to discuss the merits of the case, or agree with or support one party over another. Any discussion between a provider and the parties should be for the purposes of arranging visitation and providing for the safety of the children. In order to avoid a conflict of interest, no provider should:

(1) Be financially dependent on the person being supervised;

(2) Be an employee of the person being supervised;

(3) Be an employee of or affiliated with any superior or municipal court in the county in which the supervision is ordered unless specified in the employment contract; or

(4) Be in an intimate relationship with the person being supervised.

(g) **[Maintenance and disclosure of records]** The professional and therapeutic provider should keep a record for each case, including but not limited to the following: **(**i) a written record of each contact and visit including the date, time, and duration of the contact or visit; **(**ii) who attended the visit; **(**iii) a summary of activities during the visit; **(**iv) actions taken by the provider, including any interruptions, termination of a visit, and reasons for these actions; **(**v) an account of critical incidents, including physical or verbal altercations and threats; **(**vi) violations of protective or court visitation orders; **(**vii) any failure to comply with the terms and conditions of the visitation as per subdivision **(**i) of this section; and **(**viii) any incidence of abuse as required by law.

(1) Case recordings should be limited to facts, observations, and direct statements made by the parties, not personal conclusions, suggestions, or opinions of the provider. All contacts by the provider in person, in writing, or by telephone with either party, the children, the court, attorneys, mental health professionals, and referring agencies, should be documented in the case file. All entries should be dated and signed by the person recording the entry.

(2) If ordered by the court, or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised visit should be produced. These reports should include facts, observations, and direct statements and not opinions or recommendations regarding future visitation unless ordered by the court. A copy of any report should be sent to all parties, their attorneys, and the attorney for the child.

(3) Any identifying information about the parties and the child, including addresses, telephone numbers, places of employment, and schools, is confidential, should not be disclosed, and should be deleted from documents before releasing them to any court, attorney, attorney for the child, party, mediator, evaluator, mental health professional, social worker, or referring agency, except as required in reporting suspected child abuse.

(h) **[Confidentiality]** Communications between parties and providers of supervised visitation are not protected by any privilege of confidentiality. The psychotherapist-patient privilege does not apply during therapeutic supervision.

The professional and therapeutic provider should, whenever possible, maintain confidentiality regarding the case except when (i) ordered by the court; (ii) subpoenaed to produce records or testify in court; (iii) requested by a mediator or evaluator in conjunction with a court-ordered mediation, investigation, or evaluation; (iv) required by Child Protective Services; or (v) requested by law enforcement.

(i) **[Delineation of terms and conditions]** The sole responsibility for enforcement of all the terms and conditions of any supervised visitation is the provider's. The terms and conditions for any supervised visitation, unless otherwise ordered by the court, are as follows:

(1) Monitor conditions to assure the safety and welfare of the child;

(2) Enforce the frequency and duration of the visits as ordered by the court;

(3) Avoid any attempt to take sides with either party;

(4) Ensure that all contact between the child and the noncustodial party is within the provider's hearing and sight at all times, and that discussions are audible to the provider, unless a different order is issued by the court;

(5) Speak in a language spoken by the child and noncustodial party;

(6) Allow no derogatory comments about the other parent, his or her family, caretaker, child, or child's siblings;

(7) Allow no discussion of the court case or possible future outcomes;

(8) Allow no provider nor the child to be used to gather information about the other party or caretaker or to transmit documents, information, or personal possessions;

(9) Allow no spanking, hitting, or threatening the child;

(10) Allow no visits to occur while the visiting party appears to be under the influence of alcohol or illegal drugs;

(11) Allow no emotional, verbal, physical, or sexual abuse; and

(12) Ensure that the parties follow any additional rules set forth by the provider or the court.

(j) [Safety considerations for sexual abuse cases] In cases where there are allegations of sexual abuse, the following additional terms and conditions are applicable to all providers unless otherwise authorized by the court:

(1) Allow no exchanges of gifts, money, or cards;

(2) Allow no photographing, audiotaping, or videotaping of the child;

(3) Allow no physical contact with the child such as lap sitting, hair combing, stroking, hand holding, prolonged hugging, wrestling, tickling, horseplaying, changing diapers, or accompanying the child to the bathroom;

(4) Allow no whispering, passing notes, hand signals, or body signals; and

(5) Allow no supervised visitation in the location where the alleged sexual abuse occurred.

(k) [Legal responsibilities and obligations of a provider] All providers of supervised visitation have the following responsibilities and obligations:

(1) Advise the parties before commencement of supervised visitation that no confidential privilege exists;

(2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make such reports;

(3) Implement the terms and conditions as per subdivision (i) of this section; and

(4) Suspend or terminate visitation as per subdivision (m) of this section.

(*l*) [Additional legal responsibilities for professional and therapeutic providers] In addition to the preceding legal responsibilities and obligations, the professional and therapeutic provider should:

(1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation;

(2) Review custody and visitation orders relevant to the supervised visitation;

(3) Implement an intake and screening procedure as per subdivision (d)(2) of this section; and

(4) Comply with additional requirements as per subdivision (n) of this section.

(m) [Temporary suspension or termination of supervised visitation] All providers should make every reasonable effort to provide a safe visit for the child and the noncustodial party. However, if a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated. All interruptions or terminations of visits should be recorded in the case file.

All providers should advise both parties of the reasons for interruption of a visit or termination.

(n) [Additional requirements for professional and therapeutic providers] The professional and therapeutic provider should also state the reasons for temporary suspension or termination of supervised visitation in writing and provide them to both parties, their attorneys, the attorney for the child, and the court.

Sec. 26.2 adopted effective January 1, 1998.

Drafter's Notes
1998—This standard was adopted to comply with Family Code section 3200. The standard provides the first statewide framework for providers of supervised visitation, encompassing the areas mandated in the statute: qualifications, experience, and education; safety and security procedures; conflicts of interest; maintenance and disclosure of records; confidentiality; delineation of terms and conditions; procedures for termination; and legal responsibilities and obligations for providers of supervised visitation.

Sec. 27. [Repealed 1998]

Sec. 27 repealed effective July 1, 1998; adopted effective July 1, 1991.

Drafter's Notes
1998—In response to the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233), the council adopted five new rules on court management effective July 1, 1998. These new rules will be incorporated into a new title of the California Rules of Court covering judicial administration (Title Six). In addition, rules 205, 207, and 532.5, regarding the duties of presiding judges and court executives in preparing personnel plans, were amended to conform to the new rules, and section 27 of the Standards of Judicial Administration, regarding trial court personnel plans, was repealed, effective July 1, 1998.

Sec. 28. Trial court coordination plan (Gov. Code, §68112)

(a) [Purposes] The purposes of trial court coordination are to increase access to justice through effective use of judicial system resources and to achieve savings in the cost of court operations. A trial court coordination plan documents the methods by which a trial court intends to achieve these goals, without impairing the ability of a court to meet case-processing time standards.

(Subd (a) adopted effective January 1, 1992.)

(b) [Submission and participation] Each superior court, municipal court district, and justice court district is required by Government Code section 68112 to submit a trial court coordination plan. A department, division, or branch of a court may not submit a trial court coordination plan unless the court petitions the Judicial Council to permit division of the court into smaller administrative units for the purposes of coordination where a court-wide plan would impose an undue burden because of the number of judges or the location of the subdivisions of the court. The Judicial Council should receive the petition by January 2 of each year.

Each court should participate in a plan with other courts, all the courts in a county, or courts in other counties.

(Subd (b) adopted effective January 1, 1992.)

(c) [Form and content] A trial court coordination plan should include the following information in the format provided by the Judicial Council:

(1) Description of reporting court: The first section of a trial court coordination plan should include a description of the locations of all court operations, the number of judges and employees at each location, and the percentage of a full-time position available to the court as the home court of a certified justice court judge, if applicable. This section of a plan should also describe any coordination methods used by the reporting court in the 1991-1992 fiscal year and earlier.

(2) Explanation of coordination methods: A plan is required by Government Code section 68112 to include consideration of each method of coordination listed in section 29 of these standards. For those methods that will be used, a plan should include an explanation of what will be done. For those methods that will not be used, a plan should explain why. This explanation should also identify barriers to using a particular method, such as prohibitive costs to the bar, the public, or other agencies not part of court operations as defined in rule 810. A court using coordination and cost-saving methods not listed in section 29 should explain those methods in the plan as well.

(3) Explanation of benefits and term of plan: Trial court coordination should achieve improved access for citizens, cost avoidance, and cost reduction through maximum utilization of judicial and other court resources. A court should explain what benefits are anticipated from each method used in its plan. Benefits should include a cost reduction in court operations calculated as set forth in Government Code section 68112(a).

A plan should be in the form of a one-year action plan with goals and objectives for the remaining two years of the three-year term. Action plans for 1993-1994 and 1994-1995 should be submitted to the Judicial Council on March 1, 1993, and March 1, 1994, respectively.

(4) Explanation of plan creation process: A court is required by Government Code section 68112 to consult with the local bar before creating a trial court coordination plan. A plan should explain the methods by which the local bar was involved in its creation. It should also name the participants in the plan creation process and explain their roles. A court is also encouraged to consult with affected public agencies.

(5) Explanation of ratification and other processes: A plan should include a certification by the presiding judge that the plan has been ratified by a majority of the judges in the court. It should also explain the means by which the participating courts will implement and oversee the operation of the plan, including procedures for: (i) resolution of conflicts between the participants, (ii) modification and termination of the agreement to coordinate, and (iii) evaluation of the effectiveness of the plan, including an explanation of objective criteria to be used for measuring effectiveness.

(Subd (c) adopted effective January 1, 1992.)

(d) [Other considerations] A plan should refer to the following matters if applicable:

(1) Mandated statistical reporting requirements and suggested changes in the requirements that would facilitate coordination.

(2) Legal impediments to desired coordination measures and suggested changes in the law that would facilitate coordination.

(3) Contractual constraints to desired coordination measures and suggested changes in collective bargaining agreements or memoranda of understanding that would facilitate coordination.

(Subd (d) adopted effective January 1, 1992.)

(e) [Submission of related documents] Any other document **(**e.g., a memorandum of understanding) that may affect or is incorporated by reference into a trial court coordination plan should be submitted to the Judicial Council with the plan.

(Subd (e) adopted effective January 1, 1992.)

Sec 28 adopted effective January 1, 1992.

Sec. 29. Methods of trial court coordination

(a) [Coordination—General] Any reference in this section to coordination includes joint use, sharing, merger, unification, or consolidation. A trial court coordination plan submitted to the Judicial Council is required by Government Code section 68112 to address and implement coordinating activity using the principles and criteria outlined in this section.

(b) [Goal] The goal of trial court coordination is the maximum utilization of judicial and other court resources to accomplish increased efficiency in court operations and increased service to the public.

(c) [Objectives] The objectives of trial court coordination are:

(1) Judicial Coordination: The coordination of judicial supervision, resources, case assignment, and all other aspects of the governance of all courts in a county through a single presiding judge, or an oversight committee, or other mechanism approved by the Judicial Council.

(2) Organizational Structure and Provision of Services: The coordination of administrative and support services of all courts within the county.

(3) Coordination of Case-Processing/Case-Managing Systems: The development and use of unified case-processing systems by all courts within the county.

(d) [Methods] The methods of trial court coordination are:

(1) *Judicial Coordination*

(i) Creation of a process to ascertain the expertise and interest of all judges and subordinate judicial officers in particular case or court assignments.

(ii) The training of judges and subordinate judicial officers in accordance with expressed interest and the needs of the court in order to facilitate new case or court assignments.

(iii) Development of a uniform, county-wide case-processing system to enable maximum utilization of judicial officers.

(iv) Actual use of all judges and subordinate judicial officers within a county in a manner that maximizes the utilization of judicial officers and is consistent with judicial expertise, interest, and training, and recognizes the caseloads in all courts within the county.

(2) *Organizational Structure and Provision of Services*

(i) The coordination of all administrative policymaking and responsibility for performance of all administrative functions for all courts within a county:

a. Preparation, submission, negotiation, and ongoing administration of a single unified budget to the Trial Court Budget Commission and to appropriate county structures.

b. Centralization of accountability for all expenditures.

c. Centralization of accountability for all revenue.

d. Establishment and administration of a unified personnel system to the extent permitted by law.

e. Creation of unified training programs.

(ii) The integration of all direct court support services, including the clerk of superior court functions, for all courts in a county:

a. Common jury services.

b. Court reporting services.

c. Interpreter services.

d. Courtroom clerks.

e. Counter/processing clerks.

f. Exhibits clerks.

g. Judicial secretaries.

h. Legal research attorneys.

i. Court attendants.

(iii) The development of unified information/technology systems, and the shared use by all courts of available technology:

a. Integrated automated accounting system pursuant to Government Code section 68090.8.

b. Coordinated information support systems.

c. Shared use of video arraignment equipment.

d. Shared microfilm / imaging systems.

e. Shared judicial libraries.

(iv) The use of a centralized method(s) of collecting fines, fees, forfeitures, and penalties for all courts in a county:

a. Centralized unit of court staff providing collection services for all courts in a county; or

b. Centralized county collection unit; or

c. Shared use of vendor(s) for all collection services; or

d. A combination of any of the above.

(v) The joint oversight within a county of court-coordinated activities:

a. Appointment of a joint court executive officer (including merger of all clerk of superior court functions) for the superior court and some or all municipal courts within a county pursuant to Government Code section 68114.6 (and performing duties as defined in rules 207 and 835 of the California Rules of Court and Code of Civil Procedure section 195) who reports directly to a single presiding judge or an oversight committee for all courts that are administratively consolidated; or

b. Selection of a single court administrator or clerk pursuant to Government Code section 71181 (and performing duties as defined in rules 207 and 835 of the California Rules of Court) for some or all municipal courts within the county who reports directly to a single presiding judge or an oversight committee for all courts administratively consolidated; or

c. Any other structure that furthers the goal and objectives of trial court coordination and is approved by the Judicial Council.

(3) *Coordination of Case-Processing/Case-Managing Systems*

(i) The unification of local rules so that cases can be litigated using the same rules at any court in the county:

a. Adoption of same rules for all like proceedings in all courts within the county.

b. Adoption of same rules for jointly utilized external programs (e.g., judicial arbitration programs).

(ii) The filing of any document in any case at any court location in the county, subject to appropriate rules as to timeliness for filing. The filing of initial/subsequent documents at all courts/appropriate branches.

(iii) The coordination of calendars among all courts in the county to minimize scheduling conflicts.

(iv) The coordinated administration and use of all alternative dispute resolution programs by all courts within the county, including arbitration, mediation, or any other program.

Sec. 29 as amended effective January 25, 1995; adopted effective January 1, 1992.

Sec. 30. Trial court performance

These standards are intended to be used by trial courts, in cooperation with the Judicial Council, for purposes of internal evaluation, self-assessment, and self-improvement. They are not intended as a basis for cross-court comparisons, nor are they intended as a basis for evaluating the performance of individual judges.

The standards for trial court performance are as follows:

(1) *Access to Justice*

(i) The court conducts its proceedings and other public business openly.

(ii) Court facilities are safe, accessible, and convenient to use.

(iii) All who appear before the court are given the opportunity to participate effectively without undue hardship or inconvenience.

(iv) Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

(v) The costs of access to the trial court's proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

(2) *Expedition and Timeliness*

(i) The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

(ii) The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

(iii) The trial court promptly implements changes in law and procedure.

(3) *Equality, Fairness, and Integrity*

(i) Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

(ii) Jury lists are representative of the jurisdiction from which they are drawn.

(iii) Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

(iv) Decisions of the trial court unambiguously address the issues presented to it and make clear how compliance can be achieved.

(v) The trial court takes appropriate responsibility for the enforcement of its orders.

(vi) Records of all relevant court decisions and actions are accurate and properly preserved.

(4) *Independence and Accountability*

(i) A trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.

(ii) The trial court responsibly seeks, uses, and accounts for its public resources.

(iii) The trial court uses fair employment practices.

(iv) The trial court informs the community of its programs.

(v) The trial court anticipates new conditions or emergent events and adjusts its operations as necessary.

(5) *Public Trust and Confidence*

(i) The trial court and the justice it delivers are perceived by the public as accessible.

(ii) The public has trust and confidence that the basic trial court functions are conducted expeditiously and fairly and that its decisions have integrity.

(iii) The trial court is perceived to be independent, not unduly influenced by other components of government, and accountable.

Sec. 30 adopted effective January 25, 1995.

Sec. 32. Coordination of alternative dispute resolution programs

Trial courts should coordinate alternative dispute resolution (ADR) programs as follows:

(1) Jointly establish appropriate criteria for determining which cases should be referred to ADR, and which types of ADR are appropriate for those cases.

(2) Jointly develop, refine, and use lists of qualified ADR providers.

(3) Jointly adopt criteria for referring appropriate cases to qualified ADR providers and coordinate referrals.

(4) Jointly develop ADR information and provide education programs for parties who are not represented by counsel.

(5) Coordinate ADR education for judges.

(6) Explore joint funding of ADR.

Sec. 32 adopted effective July 1, 1992.

Drafter's Notes

1992—New sections 32 and 33 were added concerning the coordination of ADR and criteria for referring cases. An advisory committee comment was approved concerning the appropriate weight to be given to settlement rate in referring cases to dispute resolution providers.

Sec. 32.5. [Repealed 2001]

Sec. 32.5 repealed effective January 1, 2001; adopted effective January 1, 1999. See rules 1580 et seq.

Sec. 33. Criteria for referring cases to dispute resolution providers

(a) [Initial considerations] Initially, courts should form committees of judges, attorneys, alternative dispute resolution **(**ADR) providers, and county ADR administrators, if any, to evaluate the training and experience of potential providers of ADR services.

(Subd (a) adopted effective July 1, 1992.)

(b) [Long-term criteria] After a court has sufficient experience with an ADR provider, continuing referrals to that provider should be based on indicators of client satisfaction, settlement rate, and continuing education of the provider. Performance-based testing should be considered.

(Subd (b) adopted effective July 1, 1992.)

Advisory Committee Comment

Although settlement rate is an important indicator of a provider's effectiveness, it should be borne in mind that some disputes will not resolve, despite the best efforts of a skilled provider. Providers should not feel pressure to achieve a high settlement rate through resolutions that may not be in the interest of one or more parties. Accordingly, settlement rate should be used with caution as a criterion for court referral of disputes to providers.

Sec. 33 adopted effective July 1, 1992.

Drafter's Notes
1992—See note following sec. 32.

Sec. 34. Court records management standards

Each court should develop records management practices consistent with the standards approved by the Judicial Council. The approved standards are set forth in Judicial Council Court Records Management Standards, published by the Administrative Office of the Courts.

Implementation of these standards, which cover creation, use, maintenance, and destruction of records, should lead to more efficient court administration, better protection and preservation of records, and improved public access to records.

Rule 34 adopted effective January 1, 1993.

Drafter's Notes
1993—The council adopted standards available from the Administrative Office of the Courts that cover creation, use, maintenance, and destruction of records and should lead to more efficient court administration, better protection and preservation of records, and improved public access to records. The standards were developed after records management practices were studied in a cross-section of six trial courts and one appellate court.

The council will seek legislation for a comprehensive program that consolidates under one heading all records management statutes and rules to apply to all levels of court. The proposed legislation incorporates a new streamlined records retention schedule and authority for preserving the records "in any form of communication or representation," including court reporter notes, to lay the foundation for paperless courts (among other provisions). The council will also seek legislation to give it authority over the management of records including the care, custody, and disposition of case, fiscal, and administrative records.

1998—The Court Records Management Standards were amended to make technical corrections.

Sec. 35. Model code of ethics for court employees

Each trial and appellate court should adopt a code of ethical behavior for its support staff, and in doing so should consider the model Code of Ethics for the Court Employees of California approved by the Judicial Council on May 17, 1994, and any subsequent revisions. The approved code is published by the Administrative Office of the Courts.

Sec. 35 adopted effective July 1, 1994.

Drafter's Notes
1994—The council approved the "Code of Ethics for the Court Employees of California" and "Guidelines" developed by an ad hoc committee composed of both judicial and nonjudicial members, and adopted new section 35 of the recommended Standards of Judicial Administration to encourage all courts to consider the Code of Ethics in adopting a local code of ethical behavior for court employees.

Sec. 36. Guidelines for diversion drug court programs

(a) **[Minimum components]** The components specified in this section should be included as minimum requirements in any pre-plea diversion drug court program developed under Penal Code section 1000.5.

(b) **[Early entry]** Eligible participants should be identified early and enter into a supervision and treatment program promptly.

(1) A declaration of eligibility should be filed by the district attorney no later than the date of the defendant's first appearance in court.

(2) Participants designated as eligible by the district attorney should be ordered by the assigned drug court judge to report for assessment and treatment supervision within five days of the first court appearance.

(c) **[Treatment services]** Participants should be given access to a continuum of treatment and rehabilitative services.

(1) The county drug program administrator should specify and certify appropriate drug treatment programs pursuant to Penal Code section 1211.

(2) The certified treatment programs should provide a minimum of two levels of treatment services to match participants to programs according to their needs for treatment, recognizing that some divertees may be at the stage of experimenting with illicit drugs while others may be further along in the addiction's progression.

(3) Each treatment level should be divided into phases in order to provide periodic reviews of treatment progress. Each phase may vary in length. It should be recognized that a participant is expected to progress in treatment but may relapse. Most participants, however, should be able to successfully complete the treatment program within 12 months.

(4) Each pre-plea diversion drug court program should have an assessment component to ensure that participants are initially screened and then periodically assessed by treatment personnel to ensure that appropriate treatment services are provided and to monitor the participants' progress through the phases.

(5) Treatment services should include educational and group outpatient treatment. Individual counseling, however, should be made available in special circumstances if an assessment based on acceptable professional standards indicates that individual counseling is the only appropriate form of treatment. Referrals should be made for educational and vocational counseling if it is determined to be appropriate by the judge.

(d) **[Monitoring]** Abstinence from and use of drugs should be monitored by frequent drug testing.

(1) Alcohol and other drug (AOD) testing is essential and should be mandatory in each pre-plea diversion drug court program to monitor participant compliance.

(2) Testing may be administered randomly or at scheduled intervals, but should occur no less frequently than one time per week during the first 90 days of treatment.

(3) The probation officer and court should be immediately notified when a participant has tested positive, has failed to submit to AOD testing, or has submitted an adulterated sample. In such cases, an interim hearing should be calendared and required as outlined in subdivision (e)(4).

(4) Participants should not be considered to have successfully completed the treatment program unless they have consistently had negative test results for a period of four months.

(e) **[Judicial supervision]** There should be early and frequent judicial supervision of each diversion drug court participant.

(1) Each participant should appear in court before a specifically assigned diversion drug court judge within 30 days after the first court appearance. At this time the participant should provide proof of registration, proof of completion of assessment, proof of entry into a specific treatment program, and initial drug test results.

(2) The second drug court appearance should be held no later than 30 days after the first drug court appearance. The third drug court appearance should be held no later than 60 days after the second drug court appearance.

(3) A final drug court appearance should be required no sooner than 12 months from entry into treatment unless continued treatment is found to be appropriate and necessary.

(4) Interim drug court appearances should be required within one week of the following: positive drug test results, failure to test, adulterated test, or failure to appear or participate in treatment.

(5) At each drug court appearance, the judge should receive a report of the participant's progress in treatment and drug test results and should review, monitor, and impose rewards and sanctions based on the participant's progress or lack of progress.

(f) [Sanctions and incentives] The drug court responds directly to each participant's compliance or noncompliance with graduated sanctions or incentives.

(1) A clear regimen of incentives and sanctions should be established and implemented at each court hearing.

(2) The suggested range of incentives should be as follows:

(i) encouragement;

(ii) advancement to next treatment phase;

(iii) reduction in diversion program fees (other than state-mandated fees);

(iv) completion of treatment and required court appearances and shortening of the term of diversion; and

(v) other incentives the court may deem necessary or appropriate.

(3) The suggested range of sanctions should be as follows:

(i) demotion to earlier treatment phase;

(ii) increased frequency of testing, supervision, or treatment requirements;

(iii) graduated length of incarceration for violating diversion order to abstain from use of illegal drugs and for nonparticipation in treatment; and

(iv) reinstatement of criminal proceedings.

(4) A participant should be terminated from the pre-plea diversion drug court, and criminal proceedings reinstated, if the drug court judge, after a hearing, makes a final and specific finding and determination at any time during the period of diversion that the participant has

(i) not performed satisfactorily in treatment;

(ii) failed to benefit from education, treatment, or rehabilitation;

(iii) been convicted of a misdemeanor that reflects the participant's propensity for violence; or

(iv) engaged in criminal conduct rendering him or her unsuitable for continued treatment.

(g) [National standards] In addition to meeting these minimum standards, courts are encouraged to look to the nationally accepted guidelines, *Defining Drug Courts: The Key Components*, developed by the National Association of Drug Court Professionals in cooperation with the Department of Justice, for further and detailed guidance in developing an effective diversion drug court program.

Sec. 36 adopted effective January 1, 1998.

Drafter's Notes
1998—This standard was adopted to provide the basis for criteria that will allow the AOC to evaluate the impact of the drug court grant program and assist courts in developing and administering pre-plea drug courts in compliance with Penal Code section 1000.5.

Sec. 37. [Repealed 2003]

Sec. 37 repealed effective January 1, 2003; adopted effective January 1, 1999.

Drafter's Notes
1999—New section 37 of the Standards of Judicial Administration offers guidance to courts implementing electronic filing under rule 981.5. Conforming technical amendments were made to rule 981.5(c) to add a reference to section 37 and remove requirements for pilot project approval that became unnecessary after section 37 was adopted.

Sec. 38. [Repealed 2002]

Sec. 38 repealed effective July 1, 2002; adopted effective January 1, 1999.

Drafter's Notes
2002—See note following rule 2070.

Sec. 39. The role of the judiciary in the community

Judicial participation in community outreach activities should be considered an official judicial function to promote public understanding of and confidence in the administration of justice. This function should be performed in a manner consistent with the California Code of Judicial Ethics. The judiciary is encouraged to:

(a) Provide active leadership within the community in identifying and resolving issues of access to justice within the court system;

(b) Develop local education programs for the public designed to increase public understanding of the court system;

(c) Create local mechanisms for obtaining information from the public about how the court system may be more responsive to the public's needs;

(d) Serve as guest speakers, during or after normal court hours, to address local civic, educational, business, and charitable groups that have an interest in understanding the court system but do not espouse a particular political agenda with which it would be inappropriate for a judicial officer to be associated; and

(e) Take an active part in the life of the community where the participation of the judiciary will serve to increase public understanding and promote public confidence in the integrity of the court system.

Sec. 39 adopted effective April 1, 1999.

Drafter's Notes
April 1999—New section 39 and amended rules 205, 207, and 532.5, effective April 1, 1999, encourage judges to provide leadership for and personally engage in community collaboration and outreach activities as part of their judicial functions.

DIVISION III. General Information on Appellate Practice [Discontinued 1982.]

[This division of the Appendix of the California Rules of Court was discontinued by the Judicial Council effective August 20, 1982.]

DIVISION IVa. Form Interrogatories [Discontinued 1985.]

[This division of the Appendix of the California Rules of Court was discontinued July 1, 1985.]

DIVISION IVb. Form Interrogatories—Unlawful Detainer [Discontinued 1985.]

[This division of the Appendix of the California Rules of Court was discontinued July 1, 1985.]

DIVISION IVc. Form Interrogatories—Economic Litigation [Discontinued July 1, 1985.]

[This division of the Appendix to the California Rules of Court was discontinued July 1, 1985.]